

Supreme Court, U. S.  
FILED

AUG 9 1976

MICHAEL RODAK, JR., CLERK

---

IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1975

---

No. 75-562

---

ROSEBUD SIOUX TRIBE,

*Petitioner,*

*v.*

HONORABLE RICHARD KNEIP, *et al.*,

*Respondents.*

---

ON WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

---

APPENDIX  
[Volume I – Pages 1-472]

---

PETITION FOR CERTIORARI FILED OCTOBER 11, 1975  
CERTIORARI GRANTED MAY 24, 1976

(i)

## TABLE OF CONTENTS

Page

|                                                                                         |    |
|-----------------------------------------------------------------------------------------|----|
| Docket Entries .....                                                                    | 1  |
| Amended Complaint .....                                                                 | 3  |
| Answer of Defendant Counties of Mellette, Lyman,<br>Tripp, and Gregory (10/10/72) ..... | 9  |
| Answer of Defendants, Honorable Richard Kneip and<br>Gordon Mydland (10/16/72) .....    | 12 |
| Order Adding Parties Defendant (1/11/73) .....                                          | 27 |
| Answer of Defendant United States (3/21/73) .....                                       | 28 |
| Notice of Appeal (3/13/74) .....                                                        | 30 |
| Stay of Mandate (8/25/75) .....                                                         | 32 |

### Entry

|                                                                                                                                           |    |
|-------------------------------------------------------------------------------------------------------------------------------------------|----|
| #1 H.R. 4740 56th Cong. 1st Sess. (1899) .....                                                                                            | 33 |
| #1A 33 Cong. Rec. 380 (1899) .....                                                                                                        | 40 |
| 33 Cong. Rec. 291 .....                                                                                                                   | 40 |
| 33 Cong. Rec. 594 .....                                                                                                                   | 40 |
| 33 Cong. Rec. 2521 .....                                                                                                                  | 40 |
| #1B H.R. Rep. No. 486, 56th Cong. 1st Sess. (1900) ..                                                                                     | 42 |
| #2 33 Cong. Rec. 380 (1899) .....                                                                                                         | 47 |
| 33 Cong. Rec. 54 .....                                                                                                                    | 47 |
| 33 Cong. Rec. 561 .....                                                                                                                   | 47 |
| #3 34 Cong. Rec. 152 (1901) .....                                                                                                         | 48 |
| 34 Cong. Rec. 3556 .....                                                                                                                  | 48 |
| #4 March 19, 1901 letters to Sec. of Interior and<br>Indian Inspector McLaughlin from W. A.<br>Jones Commissioner of Indian Affairs ..... | 51 |
| #5 35 Cong. Rec. 377 (1901-1902) .....                                                                                                    | 59 |
| 35 Cong. Rec. 81 .....                                                                                                                    | 59 |
| 35 Cong. Rec. 751 .....                                                                                                                   | 60 |
| 35 Cong. Rec. 2477 .....                                                                                                                  | 60 |



## (ii)

| Entry                                                            | Page |
|------------------------------------------------------------------|------|
| 35 Cong. Rec. 2717 .....                                         | 60   |
| 35 Cong. Rec. 2882 .....                                         | 61   |
| 35 Cong. Rec. 3187-3188 .....                                    | 61   |
| 35 Cong. Rec. 3450 .....                                         | 71   |
| 35 Cong. Rec. 3541 .....                                         | 71   |
| 35 Cong. Rec. 3556-3557 .....                                    | 72   |
| 35 Cong. Rec. 4424-4425 .....                                    | 72   |
| 35 Cong. Rec. 4569 .....                                         | 73   |
| 35 Cong. Rec. 4608 .....                                         | 74   |
| 35 Cong. Rec. 4715 .....                                         | 75   |
| 35 Cong. Rec. 4750 .....                                         | 75   |
| 35 Cong. Rec. 4800-4807 .....                                    | 76   |
| 35 Cong. Rec. 4855-4862 .....                                    | 112  |
| 35 Cong. Rec. 4911-4918 .....                                    | 152  |
| 35 Cong. Rec. 4963-4971 .....                                    | 195  |
| 35 Cong. Rec. 5013 .....                                         | 236  |
| 35 Cong. Rec. 5019-5024 .....                                    | 237  |
| 35 Cong. Rec. 5198 .....                                         | 273  |
| 35 Cong. Rec. 5613-5614 .....                                    | 273  |
| #5A S. Rep. No. 662, 57th Cong. 1st Sess. 1-6 (1902) ..          | 274  |
| #5B H.R. Rep. No. 2099, 57th Cong. 1st Sess. 1-4<br>(1902) ..... | 289  |
| #6 35 Cong. Rec. 377 (1901-1902) .....                           | 299  |
| 35 Cong. Rec. 412 .....                                          | 299  |
| 35 Cong. Rec. 680 .....                                          | 299  |
| 35 Cong. Rec. 2814 .....                                         | 300  |
| #6A H. R. Rep. No. 954, 57th Cong. 1st Sess. 1-4<br>(1902) ..... | 301  |
| #7 35 Cong. Rec. 377 (1901-1902) .....                           | 310  |
| 35 Cong. Rec. 245 .....                                          | 310  |
| 35 Cong. Rec. 206 .....                                          | 310  |
| 35 Cong. Rec. 1279 .....                                         | 311  |
| #7A S. Doc. No. 31, 57th Cong. 1st Sess. 1-43 (1901) .           | 312  |
| #8 35 Cong. Rec. 377 (1901-1902) .....                           | 410  |
| 35 Cong. Rec. 747 .....                                          | 410  |

## (iii)

| Entry                                                                                                                                                                                           | Page |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| #9 35 Cong. Rec. 377 (1901-1902) .....                                                                                                                                                          | 413  |
| 35 Cong. Rec. 4706 .....                                                                                                                                                                        | 413  |
| #9A S. Doc. 324, 57th Cong. 1st Sess. 1-7 (1902) ....                                                                                                                                           | 414  |
| #10 36 Cong. Rec. 148 (1902-1903) .....                                                                                                                                                         | 430  |
| 36 Cong. Rec. 141 .....                                                                                                                                                                         | 430  |
| 36 Cong. Rec. 2409 .....                                                                                                                                                                        | 430  |
| 36 Cong. Rec. 2473 .....                                                                                                                                                                        | 431  |
| #10A H.R. Rep. No. 3839, 57th Cong. 2d Sess. 1-5<br>(1903) .....                                                                                                                                | 432  |
| #11 36 Cong. Rec. 148 (1902-1903) .....                                                                                                                                                         | 443  |
| 36 Cong. Rec. 51 .....                                                                                                                                                                          | 443  |
| 36 Cong. Rec. 2434 .....                                                                                                                                                                        | 444  |
| 36 Cong. Rec. 2498 .....                                                                                                                                                                        | 444  |
| 36 Cong. Rec. 2502 .....                                                                                                                                                                        | 444  |
| 36 Cong. Rec. 2747-2748 .....                                                                                                                                                                   | 445  |
| 36 Cong. Rec. 3074 .....                                                                                                                                                                        | 449  |
| #11A S. Rep. No. 3271, 57th Cong. 2d Sess. 1-5 (1903) .                                                                                                                                         | 450  |
| #12 Letter of June 30, 1903 from Commissioner of<br>Indian Affairs Jones to Indian Inspector<br>McLaughlin .....                                                                                | 461  |
| #13 Minutes of Council, July 24, 1903 to Aug. 10,<br>1903 .....                                                                                                                                 | 467  |
| #13A Excerpt from Report of the Commissioner of In-<br>dian Affairs 1901. Letter dated Aug. 15,<br>1901 from the Supt. to the CIA .....                                                         | 523  |
| #14 36 Cong. Rec. 148 (1902-1903) .....                                                                                                                                                         | 525  |
| 36 Cong. Rec. 1559 .....                                                                                                                                                                        | 525  |
| 36 Cong. Rec. 626 .....                                                                                                                                                                         | 527  |
| #14A Excerpt from letter dated Aug. 31, 1903 from<br>Inspector James McLaughlin to the Sec. of<br>the Interior (N.A. Group 48, Records of the<br>Office of the Sec. of the Int., Ind. Div.) ... | 528  |

(iv)

| <u>Entry</u>                                                                  | <u>Page</u> |
|-------------------------------------------------------------------------------|-------------|
| #14B Excerpts from Report of the Commissioner of Ind. Affairs, 1903 . . . . . | 530         |
| #15 Act of April 23, 1904 ch. 1484, 33 Stat. 254 . . .                        | 531         |
| #15A 38 Cong. Rec. 268 (1904) . . . . .                                       | 541         |
| 38 Cong. Rec. 275 . . . . .                                                   | 541         |
| 38 Cong. Rec. 902-903 . . . . .                                               | 541         |
| 38 Cong. Rec. 1010 . . . . .                                                  | 542         |
| 38 Cong. Rec. 1292-1293 . . . . .                                             | 542         |
| 38 Cong. Rec. 1421-1429 . . . . .                                             | 543         |
| 38 Cong. Rec. 1467 . . . . .                                                  | 592         |
| 38 Cong. Rec. 1468 . . . . .                                                  | 592         |
| 38 Cong. Rec. 1469 . . . . .                                                  | 592         |
| 38 Cong. Rec. 1601 . . . . .                                                  | 593         |
| 38 Cong. Rec. 4984-4988 . . . . .                                             | 593         |
| 38 Cong. Rec. 5155 . . . . .                                                  | 626         |
| 38 Cong. Rec. 5214 . . . . .                                                  | 627         |
| 38 Cong. Rec. 5218 . . . . .                                                  | 627         |
| 38 Cong. Rec. 5287 . . . . .                                                  | 628         |
| 38 Cong. Rec. 5447 . . . . .                                                  | 628         |
| #15B H.R. Rep. No. 443, 58th Cong. 2d Sess. 1-19 (1904) . . . . .             | 629         |
| #15C S. Rep. No. 651, 58th Cong. 2d Sess. 1-12 (1904) .                       | 678         |
| #15D S. Doc. No. 158, 58th Cong. 2d Sess. 1-7 (1904) .                        | 709         |
| #16 38 Cong. Rec. 268 (1904) . . . . .                                        | 724         |
| 38 Cong. Rec. 71 . . . . .                                                    | 724         |
| 38 Cong. Rec. 1100 . . . . .                                                  | 724         |
| 38 Cong. Rec. 1877 . . . . .                                                  | 725         |
| #17 38 Cong. Rec. 2827-2832 (1904) . . . . .                                  | 726         |
| #18 History of the Chicago & North Western Railway System . . . . .           | 762         |
| #19 Act of Feb. 7, 1905 ch. 545, 33 Stat. 700 . . . . .                       | 763         |
| #20 41 Cong. Rec. 241 (1906-1907) . . . . .                                   | 765         |
| 41 Cong. Rec. 286 . . . . .                                                   | 765         |
| 41 Cong. Rec. 2800 . . . . .                                                  | 765         |

(v)

| <u>Entry</u>                                                                                                                                                                    | <u>Page</u> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| #21 Minutes of Council from Dec. 14 to Dec. 20, 1906 & Jan. 17 to Jan. 21, 1907 . . . . .                                                                                       | 766         |
| #21A Excerpt from letter dated Feb. 12, 1907 from Inspector McLaughlin to the Sec. of the Interior (N.A. Group 75, BIA letters received, 1881-1907, 17945 Land (1907) . . . . . | 868a        |
| #22 Act of March 2, 1907 ch. 2536, 34 Stat. 1230 . . .                                                                                                                          | 869         |
| #22A 41 Cong. Rec. 241 (1906-1907) . . . . .                                                                                                                                    | 875         |
| 41 Cong. Rec. 268 . . . . .                                                                                                                                                     | 875         |
| 41 Cong. Rec. 1782 . . . . .                                                                                                                                                    | 876         |
| 41 Cong. Rec. 3004 . . . . .                                                                                                                                                    | 876         |
| 41 Cong. Rec. 3103-3105 . . . . .                                                                                                                                               | 877         |
| 41 Cong. Rec. 3182-3183 . . . . .                                                                                                                                               | 888         |
| 41 Cong. Rec. 3264 . . . . .                                                                                                                                                    | 892         |
| 41 Cong. Rec. 3323 . . . . .                                                                                                                                                    | 892         |
| 41 Cong. Rec. 3552 . . . . .                                                                                                                                                    | 893         |
| 41 Cong. Rec. 3996 . . . . .                                                                                                                                                    | 894         |
| 41 Cong. Rec. 4120-4121 . . . . .                                                                                                                                               | 895         |
| 41 Cong. Rec. 4312 . . . . .                                                                                                                                                    | 897         |
| 41 Cong. Rec. 4316 . . . . .                                                                                                                                                    | 898         |
| 41 Cong. Rec. 4402 . . . . .                                                                                                                                                    | 898         |
| 41 Cong. Rec. 4630 . . . . .                                                                                                                                                    | 898         |
| #22B H.R. Rep. No. 7613, 59th Cong. 2d Sess. 1-8 (1907) . . . . .                                                                                                               | 899         |
| #22C S. Rep. No. 6838, 59th Cong. 2d Sess. 1-7 (1907) .                                                                                                                         | 915         |
| #22D H.R. Rep. No. 8109, 59th Cong. 2d Sess. 1-2 (1907) . . . . .                                                                                                               | 931         |
| #23 Letters of Dec. 5, 1906 to the Sec. of Int. & J. McLaughlin from the Commissioner of Indian Affairs, F. E. Leupp. . . . .                                                   | 933         |
| #24 41 Cong. Rec. 241 (1906-1907) . . . . .                                                                                                                                     | 943         |
| 41 Cong. Rec. 38 . . . . .                                                                                                                                                      | 943         |
| 41 Cong. Rec. 15 . . . . .                                                                                                                                                      | 943         |

(vi)

| <u>Entry</u>                                                                     | <u>Page</u> |
|----------------------------------------------------------------------------------|-------------|
| #25 Letter of Dec. 19, 1906 to Sec. of Interior from<br>Comm. Leupp .....        | 944         |
| #26 41 Cong. Rec. 24 (1906-1907) .....                                           | 949         |
| 41 Cong. Rec. 27 .....                                                           | 949         |
| 41 Cong. Rec. 50-51 .....                                                        | 949         |
| 41 Cong. Rec. 3207 .....                                                         | 950         |
| 41 Cong. Rec. 3323 .....                                                         | 950         |
| 41 Cong. Rec. 4105 .....                                                         | 951         |
| #26A S. Rep. No. 6831, 59th Cong. 2d Sess. 1-5 (1907) .                          | 952         |
| #27 Letter of Dec. 15, 1906 to the Sec. of Int. from<br>Commissioner Leupp ..... | 962         |
| #28 41 Cong. Rec. 241 (1906-1907) .....                                          | 973         |
| 41 Cong. Rec. 3858-3861 .....                                                    | 973         |
| #29 42 Cong. Rec. 494, (1907-1908) .....                                         | 983         |
| 42 Cong. Rec. 174 .....                                                          | 983         |
| 42 Cong. Rec. 3777 .....                                                         | 983         |
| 42 Cong. Rec. 4211 .....                                                         | 984         |
| 42 Cong. Rec. 4404-4405 .....                                                    | 984         |
| 42 Cong. Rec. 4482 .....                                                         | 988         |
| #29A S. Rep. No. 440, 60th Cong. 1st Sess. 1-2 (1908) .                          | 989         |
| #30 43 Cong. Rec. 228 (1908-1909) .....                                          | 992         |
| 43 Cong. Rec. 27 .....                                                           | 992         |
| 43 Cong. Rec. 65 .....                                                           | 992         |
| 43 Cong. Rec. 1559 .....                                                         | 992         |
| 43 Cong. Rec. 1679 .....                                                         | 993         |
| #30A S. Rep. No. 887, 60th Cong. 2d Sess. 1-4 (1909) .                           | 995         |
| #31 Letter of Feb. 10, 1909 to Senator Clapp from the<br>Sec. of Interior .....  | 1002        |
| #32 44 Cong. Rec. 268 (1909) .....                                               | 1007        |
| 44 Cong. Rec. 5 .....                                                            | 1007        |
| 44 Cong. Rec. 132 .....                                                          | 1007        |

(vii)

| <u>Entry</u>                                                                                                                                                                                       | <u>Page</u> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| #33 44 Cong. Rec. 268 (1909) .....                                                                                                                                                                 | 1008        |
| 44 Cong. Rec. 315 .....                                                                                                                                                                            | 1008        |
| 44 Cong. Rec. 2013 .....                                                                                                                                                                           | 1008        |
| #34 Excerpt from letter dated April 2, 1909 from the<br>first Asst. Sec. of the Int. to Inspector Mc-<br>Laughlin (N.A. Group 75, BIA, Central File<br>1907-39, File 24400-09-3081, Pine Ridge ... | 1009        |
| #34A Minutes of Council of Mar. 11, 1909 and April 21,<br>1909 .....                                                                                                                               | 1011        |
| #35 Act of May 30, 1910 ch. 260, 36 Stat. 448 .....                                                                                                                                                | 1044        |
| #35A 45 Cong. Rec. 295 (1909-1910) .....                                                                                                                                                           | 1052        |
| 45 Cong. Rec. 2 .....                                                                                                                                                                              | 1052        |
| 45 Cong. Rec. 668 .....                                                                                                                                                                            | 1053        |
| 45 Cong. Rec. 905 .....                                                                                                                                                                            | 1053        |
| 45 Cong. Rec. 958 .....                                                                                                                                                                            | 1053        |
| 45 Cong. Rec. 1012-1013 .....                                                                                                                                                                      | 1054        |
| 45 Cong. Rec. 1065-1071 .....                                                                                                                                                                      | 1055        |
| 45 Cong. Rec. 1073-1075 .....                                                                                                                                                                      | 1091        |
| 45 Cong. Rec. 1215 .....                                                                                                                                                                           | 1103        |
| 45 Cong. Rec. 1752 .....                                                                                                                                                                           | 1104        |
| 45 Cong. Rec. 5456-5473 .....                                                                                                                                                                      | 1104        |
| 45 Cong. Rec. 5483 .....                                                                                                                                                                           | 1203        |
| 45 Cong. Rec. 5538 .....                                                                                                                                                                           | 1204        |
| 45 Cong. Rec. 6324-6326 .....                                                                                                                                                                      | 1205        |
| 45 Cong. Rec. 6379-6381 .....                                                                                                                                                                      | 1213        |
| 45 Cong. Rec. 6415-6416 .....                                                                                                                                                                      | 1223        |
| 45 Cong. Rec. 6436-6437 .....                                                                                                                                                                      | 1225        |
| 45 Cong. Rec. 6496 .....                                                                                                                                                                           | 1233        |
| 45 Cong. Rec. 6517 .....                                                                                                                                                                           | 1234        |
| 45 Cong. Rec. 7128-7129 .....                                                                                                                                                                      | 1234        |
| #35B S. Rep. No. 68, 61st Cong. 2d Sess. 1-5 (1910) ...                                                                                                                                            | 1235        |
| #35C H.R. Rep. No. 429, 61st Cong. 2d Sess. 1-5 (1910) .                                                                                                                                           | 1246        |
| #35D H.R. Rep. No. 1368, 61st Cong. 2d Sess. 1-5 (1910).                                                                                                                                           | 1257        |



(viii)

| <u>Entry</u>                                                                                           | <u>Page</u> |
|--------------------------------------------------------------------------------------------------------|-------------|
| #36 Letter of Feb. 25, 1910 to President Taft from<br>Rosebud Indian Tribal Council .....              | 1266        |
| #37 45 Cong. Rec. 295 (1909-1910) .....                                                                | 1267        |
| 45 Cong. Rec. 147 .....                                                                                | 1267        |
| 45 Cong. Rec. 10 .....                                                                                 | 1267        |
| 45 Cong. Rec. 1135 .....                                                                               | 1268        |
| 45 Cong. Rec. 5476 .....                                                                               | 1268        |
| #37A H.R. Rep. No. 332, 61st Cong. 2d Sess. 1-5 (1910) ..                                              | 1270        |
| #38 Letter of Jan 13, 1910 to Congressman Burke from<br>the Sec. of the Interior .....                 | 1280        |
| #39 46 Cong. Rec. 147 (1910-1911) .....                                                                | 1283        |
| 46 Cong. Rec. 14 .....                                                                                 | 1283        |
| 46 Cong. Rec. 55 .....                                                                                 | 1283        |
| #40 Letter of Nov. 12, 1910 to Mr. Schofield from the<br>2d Asst. Commissioner of Indian Affairs ..... | 1284        |
| #41 Series of letters between Mr. Derig & the 2d Asst.<br>Commissioner of Ind. Affairs .....           | 1286        |
| #42 Minutes of Council of Nov. 1, 1911 .....                                                           | 1290        |
| #43 Act of Aug. 17, 1911 ch. 22, 37 Stat. 21 .....                                                     | 1300        |
| #44 49 Cong. Rec. 109 (1913) .....                                                                     | 1302        |
| 49 Cong. Rec. 3 .....                                                                                  | 1302        |
| 49 Cong. Rec. 2209 .....                                                                               | 1302        |
| 49 Cong. Rec. 4210 .....                                                                               | 1303        |
| #44A S. Rep. No. 1166, 62d Cong. 3d Sess. 1-5 (1913) ..                                                | 1307        |
| #45 Letter to Senator Gamble from Sec. of Interior ...                                                 | 1318        |
| #45A Letter dated April 26, 1913 from Supt. Rosebud<br>Indian Agency to CIA .....                      | 1320        |
| #45B Excerpts from letter dated Sept. 18, 1913 from the<br>Supt. Rosebud Ind. Agency to the CIA .....  | 1324        |
| #46 49 Cong. Rec. 109 (1913) .....                                                                     | 1326        |
| 49 Cong. Rec. 60 .....                                                                                 | 1326        |
| 49 Cong. Rec. 2525 .....                                                                               | 1326        |

(ix)

| <u>Entry</u>                                                                                                                                 | <u>Page</u> |
|----------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| #47 49 Cong. Rec. 109 (1913) .....                                                                                                           | 1327        |
| 49 Cong. Rec. 64 .....                                                                                                                       | 1327        |
| 49 Cong. Rec. 3305 .....                                                                                                                     | 1327        |
| #48 Petitions in opposition to H.R. 28606 .....                                                                                              | 1328        |
| #49 Letter of Dec. 9, 1915 to Sec. of Int. from Comm.<br>of Ind. Affairs .....                                                               | 1356        |
| #50 Series of 1915 letters between G. Van Meter and<br>Dept. of Interior .....                                                               | 1361        |
| #51 Act of March 3, 1919, Public No. 338, 40 Stat.<br>1320 .....                                                                             | 1373        |
| 56 Cong. Rec. 9490 .....                                                                                                                     | 1373        |
| 57 Cong. Rec. 1838-1839 .....                                                                                                                | 1374        |
| 57 Cong. Rec. 4784 .....                                                                                                                     | 1376        |
| #51A H.R. Rep. No. 742, 65th Cong. 2d Sess. 1-2 (1918) .                                                                                     | 1377        |
| #51B S. Rep. No. 745, 65th Cong. 3d Sess. 1-2 (1919) ..                                                                                      | 1386        |
| #52 Excerpt from the report of the General Accounting<br>Office filed July 12, 1934 in the Court of<br>Claims Docket No. C-531 .....         | 1393        |
| #53 Excerpts from the Constitution of the Rosebud<br>Sioux Tribe .....                                                                       | 1394        |
| #54 Memorandum dated April 6, 1972 from the Field<br>Solicitor, Aberdeen, S.D. to the Area Direc-<br>tor, Aberdeen, BIA .....                | 1398        |
| #55 Letter dated August 23, 1974 from the Acting Area<br>Director, Aberdeen, S.D. BIA to Neil Proto,<br>Esquire, Department of Justice ..... | 1405        |
| #56 Excerpts from instruments from National Archives<br>Record Group N.75, Central Files, 1907-1921,<br>Bureau of Indian Affairs .....       | 1409        |

## CIVIL DOCKET

## UNITED STATES DISTRICT COURT

Rosebud Sioux Tribe,

Plaintiff,

vs.

Honorable Richard Kneip, Governor of the State of South Dakota, and Gordon Mydland, Attorney General of the State of South Dakota and The County of Mellette and The County of Lyman and The County of Tripp and the County of Gregory,

Defendants.

1972

\* \* \* \* \*

|              |                                                                                                |
|--------------|------------------------------------------------------------------------------------------------|
| Aug. 28 8)   | Filing Amended Complaint                                                                       |
| Sept. 22 9)  | Filing Memorandum Decision                                                                     |
| Sept. 22     | Correct Copy entered in 1972 S.D. Order Book, Page 130                                         |
| Sept. 27 10) | Filing Order Denying Motion to Dismiss by Defendants Kneip and Mydland                         |
|              | * * * * *                                                                                      |
| Oct. 10 11)  | Filing Answer of Defendant Counties of Mellette, Lyman, Tripp and Gregory to Amended Complaint |
| Oct. 10 12)  | Filing Affidavit of Service of Answer                                                          |
| Oct. 16 13)  | Filing Answer of the Defendants Honorable Richard Kneip and Gordon Mydland                     |
| Nov. 20 14)  | Filing Motion for Change of Venue                                                              |
| Nov. 20 15)  | Filing Consent to Granting Motion                                                              |

Nov. 20 16) Filing Consent to Granting Motion  
 Nov. 20 17) Filing Order Changing Venue to Central Division  
 Nov. 20 Correct copy entered in 1972 S.D. Order Book, page 151  
 Nov. 21 Notice of Entry and copy of Order mailed Richard Smith, C.J. Kelly and William F. Day, Jr.  
 Dec. 22 18) Filing Brief of Plaintiff with Appendice to Brief  
 Dec. 22 19) Filing Certificate of Service 1973  
 Jan. 11 20) Filing Motion to Amend Pleadings  
 Jan. 11 21) Filing Stipulation  
 Jan. 11 22) Filing Order to Amend Pleadings  
 Jan. 11 Notice of Entry and copy of Order mailed to William F. Day, Thomas R. Vickerman and Richard A. Smith  
 March 21 23) Filing Separate Answer of United States  
 \* \* \* \* \*  
 Feb. 7 27) Filing Memorandum Opinion  
 \* \* \* \* \*  
 Feb. 14 28) Filing Order that Memorandum Opinion Shall Constitute Court's Finding of Fact and Conclusion of Law  
 \* \* \* \* \*  
 Feb. 15 29) Filing Judgment Returning Surplus Lands to Public Domain  
 \* \* \* \* \*  
 Mar. 13 30) Filing Notice of Appeal

---

## AMENDED COMPLAINT (8/28/72)

### I

#### INTRODUCTION

(1) This is an action commenced by the Rosebud Sioux Tribe of Indians, of Rosebud, South Dakota, seeking declaratory judgment to ascertain the meaning of certain acts of Congress which define the boundaries of the Rosebud Indian Reservation

### II

#### JURISDICTION

(2) Jurisdiction is founded upon 28 U.S.C.A. § 1362. This is an action pursuant to 28 U.S.C.A § 2201 and § 2202 seeking to declare the rights and legal relations among the parties hereto.

### III

(3) The Plaintiff, Rosebud Sioux Tribe of Rosebud South Dakota is a tribe of American Indians, recognized as such by the United States of America and, thereunder, by the Department of the Interior. The Rosebud Sioux Tribe is organized pursuant to the Indian Reorganization Act, Act of June 15, 1935, C. 260, 49 Stat. 378, 25 USCA § 476 et seq.

(4) The Honorable Richard Kneip is the Governor and the Chief Officer for the State of South Dakota.

(5) Gordon Mydland is the Attorney General and officer of State charged with the enforcement of the laws of the State of South Dakota.

- (6) The County of Mellette is a County of the State of South Dakota and is organized pursuant to the laws thereof.
- (7) The County of Lyman is a County of the State of South Dakota and is organized pursuant to the laws thereof.
- (8) The County of Tripp is a County of the State of South Dakota and is organized pursuant to the laws thereof.
- (9) The County of Gregory is a County of the State of South Dakota and is organized pursuant to the laws thereof.

## IV

## FACTUAL ALLEGATIONS

- (10) The Rosebud Indian Reservation had its beginning in the Treaty of Fort Laramie 1851, 11 Stat. 749, Volume 1, SDCL pp 63-66.
- (11) In the Fort Laramie Treaty it was provided and agreed to that the Sioux or Dahcota Nation should have a territory described as:
- commencing the mouth of the White Earth River, on the Missouri River; thence in a southwesterly direction to the forks of the Platte River; thence up the north fork of the Platte River to a point known as the Red Butte, or where the road leaves the river; thence along the range of mountains known as the Black Hills, to the head-waters of Heart River; thence down Heart River to its mouth; and thence down the Missouri River to the place of beginning.
- (12) The Sioux Treaty of 1868, 15 Stat. 635, Volume 1, SDCL pp 103-112, reduced the size of this territory when it established a new area for the Sioux Nation:

The United States agrees that the following district of country, to wit, viz: commencing on the east bank of the Missouri River where the forty-sixth parallel of north latitude crosses the same, thence along low-water mark down said east bank to a point opposite where the northern line of the State of Nebraska strikes the river, thence west across said river, and along the northern line of Nebraska to the one hundred and fourth degree of longitude west from Greenwich, thence north on said meridian to a point where the forty-sixth parallel of north latitude intercepts the same, thence due east along said parallel to the place of beginning; and in addition thereto, all existing reservations on the east bank of said river shall be, and the same is, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit amongst them; and the United States now solemnly agrees that no persons except those herein designated and authorized so to do, and except such officers, agents, and employees of the Government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, or in such territory as may be added to this reservation for the use of said Indians, and henceforth they will and do hereby relinquish all claims or right in and to any portion of the United States or Territories, except such as is embraced within the limits aforesaid, and except as hereinafter provided.

- (13) Finally, the Rosebud Reservation as a single entity was created by the Treaty of 1889, an Act to divide the Reservation of Sioux Indians into separate reservations, 25 Stat. 888, Volume 1, SDCL pp 121-137.



(14) The newly created Rosebud Agency was established as:

Commencing in the middle of the main channel of the Missouri River at the intersection of the south line of Brule County; thence down said middle of the main channel of said river to the intersection of the ninety-ninth degree of west longitude from Greenwich; thence due south to the forty-third parallel of the latitude; thence west along said parallel to a point due south from the mouth of Black Pipe Creek; thence due north to the mouth of Black Pipe Creek; thence down White River to a point intersecting the west line of Gregory County extended north; thence south on said extended west line of Gregory County to the intersection of the south line of Brule County extended west; thence due east on said south line of Brule County extended to the point of beginning in the Missouri River, including entirely within said reservation all islands, if any, in said river.

(15) In the Act of April 23, 1904, Ch 1484; 33 Stat. 254, Volume 1, SDCL pp 152-159, the Congress of the United States acted to allow non-Indian homestead in a portion of the Rosebud Reservation wholly found within the County of Gregory. The act affected that portion of the Rosebud Reservation described as:

Commencing in the middle of the main channel of the Missouri River at the intersection of the south line of Brule County; thence down said middle of the main channel of said river to the intersection of the ninety-ninth degree of west longitude from Greenwich; thence due south to the forty-third parallel of latitude; thence west along said parallel of latitude to its intersection with the tenth guide meridian; thence north along said guide meridian to its intersection with the township line between

townships one hundred and one hundred and one north; thence east along said township line to the point of beginning, the unallotted land hereby ceded approximately four hundred and sixteen thousand (416,000) acres, lying and being within the boundaries of Gregory County, South Dakota, as said county is at present defined and organized.

(16) In the Act of March 2, 1907, Ch. 2536; 34 Stat. 1230, Volume 1, SDCL pp 159-162, the Congress of the United States acted to allow non-Indian homestead in a portion of the Rosebud Reservation, being the whole of Tripp County and a part of Lyman County. The act affected that portion of the Rosebud Reservation described as:

That portion of the Rosebud Indian Reservation in South Dakota lying south of the big White River and east of Range Twenty-five west of the sixth principal meridian.

(17) In the Act of May 30, 1910, Ch. 260; 36 Stat. 448, Volume 1, SDCL-167-172, the Congress of the United States acted to allow non-Indian homestead in that portion of the Rosebud Reservation that now makes up the County of Mellette.

(18) All areas within the present boundaries of the Rosebud Sioux Indian Reservation, wherever they may be, are "Indian Country" as defined by USCA § 1151.

(19) Within the areas of "Indian Country" of the Rosebud Sioux Indian Reservation, the Plaintiff has exclusive criminal jurisdiction, excepting for those crimes defined in 18 USCA § 1152, over all Indians to the exclusion of the Jurisdiction of the Defendants.

(20) Within the areas of "Indian Country" of the Rosebud Sioux Indian Reservation, the Plaintiff has exclusive jurisdiction over all civil matters affecting



Indians to the exclusion of the jurisdiction of the Defendants.

(21) At this time, in those portions of Gregory, Tripp, Lyman and Mellette Counties within the Rosebud Reservation in which non-Indian homestead has been allowed, the State of South Dakota and the particular named Counties are exercising their criminal and civil jurisdiction over American Indians therein. This exercise of criminal and civil jurisdiction by the defendants is to the exclusion of the plaintiff's criminal and civil jurisdiction, as if the whole of these areas were not "Indian Country" as defined by the laws of the United States.

(22) All of the Rosebud Reservation, as described in the Sioux Treaty of 1889 is still "Indian Country" as defined by the laws of the United States, and none of the three homestead Acts, allowing non-Indian homestead within the Rosebud Sioux Indian Reservation, reduced the size of the Rosebud Sioux Indian Reservation.

Wherefore, the Plaintiff prays this Court to declare:

A. That the Act of April 23, 1904, Ch. 1484; 33 Stat. 254, allowing non-Indian homestead within that portion of the Rosebud Sioux Indian Reservation that constitutes Gregory County, did not reduce the size of the Rosebud Reservation and that the portion of Gregory County affected by the Act of April 23, 1904, remained "Indian Country" as defined by the laws of the United States depriving the defendants of all civil and criminal jurisdiction over Indians therein.

B. That the Act of March 2, 1907, Ch. 2536; 34 Stat. 1230, allowing non-Indian settlement in a portion of the Rosebud Indian Reservation affecting Tripp and Lyman Counties did not reduce the size of the Rosebud

Reservation and that the portions of Tripp and Lyman Counties affected by the Act of March 2, 1907, remained "Indian Country" as defined by the laws of the United States depriving the defendants of all civil and criminal jurisdiction over Indians therein.

C. That the Act of May 30, 1910, Ch. 260; 36 Stat. 448, allowing non-Indian settlement in a portion of the Rosebud Indian Reservation affecting Mellette County did not reduce the size of the Rosebud Reservation and Mellette County as affected by the Act of May 30, 1910, remained "Indian Country" as defined by the laws of the United States depriving the defendants of all civil and criminal jurisdiction over Indians therein.

D. The Plaintiff further prays for its cost and disbursements herein and for such other relief as the Court may deem just.

Dated this 25th day of August, 1972.

---

#### ANSWER OF DEFENDANT COUNTIES (10/10/72)

Comes now the Defendant Counties of Mellette, Lyman, Tripp and Gregory, and for their Answer to Amended Complaint of Plaintiff allege:

1. Defendants deny each and every allegation, thing or matter alleged in Plaintiff's Complaint which is not hereafter specifically admitted.

2. Defendants admit paragraphs I (1), III (3), (4), (5), (6), (7), (8), (9); and IV (10) of Plaintiff's Complaint.

3. Concerning Plaintiff's Complaint II (2), Defendants deny jurisdiction is founded on 28 USCA Sec. 1362. Defendants admit balance of allegation.

4. Concerning Plaintiff's Complaint IV (11), Defendants admit the allegation may be an excerpt out of the language of the treaty, but denies that said treaty or allegation is material as to where the Reservation boundaries are today.

5. Concerning Plaintiff's Complaint IV (12), Defendants admit the allegation may be an excerpt out of the language of the treaty, but denies that said treaty or allegation is material as to where the Reservation boundaries are today.

6. Concerning Plaintiff's Complaint IV (14), Defendants admit the allegation, but deny that said allegation is material to where the Reservation boundaries are today.

7. Concerning Plaintiff's Complaint IV (14), Defendants admit the allegation if it refers to paragraph IV (13) of Plaintiff's Complaint.

8. Concerning Plaintiff's Complaint IV (15), Defendants admit that Act took place, but that the Court should interpret the Act as to its meaning. Defendants allege that after allotment and homestead settlement, the boundaries contemplated within the Act diminished the reservation and that the same was no longer Indian Reservation and/or Country, except as to individual Indian Allotted lands.

9. Concerning Plaintiff's Complaint IV (16), Defendants admit the Act took place, but that the Court should interpret the Act as to its meaning. Defendants allege that after allotment and homestead settlement, the boundaries contemplated within the Act diminished the Reservation and that the same was no longer Indian Reservation and/or Country, except as to individual Indian Allotted lands.

10. Concerning Plaintiff's Complaint IV (17), Defendants admit the Act took place, but that the Court should interpret the Act as to its meaning. Defendants allege that after allotment and homestead settlement, the boundaries contemplated within the act diminished the Reservation and that the same was no longer Indian Reservation and/or Country, except as to individual Indian Allotted lands.

11. Concerning Plaintiff's Complaint IV (18), Defendants do not have enough information in which to form a belief and, therefore, deny the same; if the allegation extends to lands outside the Defendants' boundaries, said allegation would not be material as to those areas.

12. Defendants deny paragraph IV (19) of Plaintiff's Complaint.

13. Defendants deny paragraph IV (20) of Plaintiff's Complaint.

14. Concerning Plaintiff's Complaint IV (21), Defendants deny that they are within the boundaries of the Rosebud Indian Reservation, or that their areas are Indian Country. Defendants admit that they exercise Criminal and Civil Jurisdiction over all area within their borders, except Indian or Trust lands. Defendants deny that the exercise of their jurisdiction is to the exclusion of Plaintiff's criminal and civil jurisdiction.

15. Concerning Plaintiff's Complaint IV (22), Defendants deny the same.

16. That for a further and Affirmative Defense to Plaintiff's Complaint, Defendants allege that their boundaries are not within the Rosebud Indian Reservation and are not Indian Country. That Defendants are free to exercise Criminal and Civil Jurisdiction within their

boundaries, over all persons within their boundaries regardless of race, creed, national origin or color.

WHEREFORE, Defendants pray that the Court determine that all lands within Defendants' boundaries are not Indian Country nor are said lands part of the Rosebud Indian Reservation, and that actually Todd County, South Dakota comprises the present Rosebud Indian Reservation, and for such other and further relief as to the Court may seem just, equitable and proper, and Defendants pray that they have and recover their costs and disbursements herein.

---

#### ANSWER OF DEFENDANTS KNEIP AND MYDLAND (10/16/72)

COME NOW the Defendants, Honorable Richard Kneip, Governor of the State of South Dakota, and Gordon Mydland, Attorney General of the State of South Dakota, and in answer to the Amended Complaint of the Plaintiff, state as follows:

##### FIRST DEFENSE

The Amended Complaint fails to state a claim against the named Defendants, or either of them, upon which relief can be granted.

##### SECOND DEFENSE

The Amended Complaint fails to show jurisdiction of the Court over the subject matter of this action as such applies to the above named defendants.

Section 2201 of Title 28 of the United States Code requires that an actual controversy exist between the

parties before the Federal Declaratory Judgment Act may be invoked. There is no showing in the Amended Complaint of any actual controversy between the Plaintiff, the Rosebud Sioux Tribe, and the above named Defendants.

##### THIRD DEFENSE

The above entitled action should be dismissed by reason of the failure of the Plaintiff to join indispensable parties as parties to the above entitled action.

Under the laws of the United States, the Plaintiff, and its enrolled members, are wards of the United States Government. The United States of America, in law, is the guardian of said Plaintiff, but is not named a party to this action.

Under the allegations in said Amended Complaint contained, the Plaintiff is seeking to greatly enlarge the territorial boundaries of the Rosebud Sioux Indian Reservation. Under the Enabling Act which authorized the territory to be formed into the State of South Dakota, and under the Compact between the State of South Dakota and the United States of America, an integral part of the Constitution of the State of South Dakota, enacted in pursuance to such Enabling Act, it was solemnly agreed by and between such parties, the State of South Dakota, and the United States of America, that all lands then in the possession of any Indian tribe within the territorial limits of the State of South Dakota would remain under the exclusive jurisdiction and control of the Congress of the United States, until removed from the possession of such Indian tribe.

If the Plaintiff be successful in its allegations as in said Amended Complaint contained, in view of this solemn



Compact between the State of South Dakota and the United States of America, multitudinous problems will immediately arise because of the activity of the citizens, the State of South Dakota, and its political subdivision, in derogation of the exclusive jurisdiction and control of the Congress of the United States. The solution of these problems can be made only by the Congress of the United States, and the United States of America. The Plaintiff, as a ward of the Federal Government, has no power or authority to attempt the solution of such problems.

The United States of America and the Congress of the United States are indispensable parties, not named as parties, to the above entitled action.

#### FOURTH DEFENSE

The above named Defendants admit the allegations stated in paragraphs 4, 5, 6, 7, 8 and 9 of Paragraph III of said Amended Complaint.

The above named Defendants admit that the Congress of the United States did enact those certain Acts of Congress set forth in Paragraphs 10, 11, 12, 13, and 14 of Paragraph IV of said Amended Complaint, but by such admissions do not admit that these are the only Acts of Congress affecting the territory thrown in dispute by the Amended Complaint of the Plaintiff.

The named Defendants deny each and every other material allegation, matter and thing, not heretofore admitted or explained in said Amended Complaint contained.

#### FIFTH DEFENSE (Latches)

The Plaintiff is not entitled to maintain this suit or to assert that the exterior boundaries of the Rosebud Sioux Indian Reservation includes the Counties of Mellette and Tripp, all of Gregory County West of the 99th Parallel, and the described portion of Lyman County, hereinafter designated as the "disputed area," by reason of laches.

#### FACTUAL SITUATION

The Plaintiff in its Amended Complaint has admitted the disputed area was opened for and homesteaded by whites. It has admitted that such homesteading resulted from the action of the Congress of the United States, as follows:

- 1904—Homesteading in disputed area in Gregory County;
- 1907—Homesteading in Tripp County and disputed area in Lyman County;
- 1910—Homesteading in Mellette County.

That since the opening of such disputed area for homesteading, at the time hereinafter set forth, for more than fifty years the white settlers and their successor in interest, people of Indian descent, whether enrolled or not enrolled as members of the Rosebud Sioux Tribe, and the Plaintiff itself, until the commencement of this action, had considered such Congressional authorization to homestead, removed such disputed area from the boundaries of the Rosebud Sioux Indian Reservation, and returned such land to the United States of America, who, upon the granting of homestead rights and the issuance of a patent to such land to a white settler relinquished exclusive jurisdiction over such patented land and author-

ized the same to become an integral part of the State of South Dakota and the United States of America.

That no white person would have settled within, homesteaded, and applied and accepted a patent to land in the disputed area, were he to believe, or were he told at the time of so acting that his patented land remained within the boundaries of the Rosebud Sioux Indian Reservation, under the control of the Congress of the United States, any of its authorized agents, and any authorized tribal council or other governing body of the Rosebud Sioux Tribe.

That Congress of the United States itself at the time of the enactment of such Acts authorizing settlement by whites, and at this time, has recognized that upon the issuance of patents to such land to white settlers that such land was removed from the exterior boundaries of the Rosebud Sioux Indian Reservation, the exclusive jurisdiction of the United States of America, and became a part and parcel of the state of South Dakota.

This Congressional recognition is patent. Under the Enabling Act which permitted South Dakota to be organized as a State of the United States of America, and the Compact between the State of South Dakota and the United States of America, as contained in the Constitution of the State of South Dakota, it was recognized by both parties that the lands of any Indian tribe within the State of South Dakota remained under the exclusive jurisdiction and control of the Congress of the United States, and that such territory was no part of the State of South Dakota, and was not subject to any jurisdiction and control of the State of South Dakota. That until the enactment of the Acts authorizing white settlement, hereinbefore set forth, Congress of the United States furnished money and other guidance over such disputed

territory. Since the enactment of such Acts, authorizing white settlement, and the issuance by the United States Government of patents to such land, the Congress of the United States, in recognition of the transfer of jurisdiction and control over the lands in such disputed areas to white persons, from the United States to the State of South Dakota has exercised no jurisdiction or control over such white settlers and their successors in interest, nor has it performed any duties, exercised no authority, or developed the economic facilities of such area, as it formerly had performed over such territory prior to authorizing its homesteading by the whites, and as it continues to perform at the present, over the territory which it is undisputed lies within the boundaries of the Rosebud Sioux Indian Reservation.

As a result of such uniform and universal recognition that the disputed territory, settled by the whites, is a part of the State of South Dakota, and is excluded from the territorial boundaries of the Rosebud Sioux Indian Reservation, subsequent to homesteading and patenting, such disputed territory has been developed substantially through the energy, efforts, and moneys of such white settlers, their successors in interest, and the State of South Dakota and its political subdivisions, unaided by any effort of the Plaintiff.

As evidence of such universal recognition of the status of such disputed area, as not being within the territorial boundaries of the Rosebud Sioux Indian Reservation, the latest available statistics relative to several important areas is set forth.

### POPULATION AND NATIONALITY OF DISPUTED AREA

The first count of the latest Federal Census of 1970 has been subject to exhaustive analysis. As a result of the following statistics relative to the **WHOLE** of the counties in such disputed area are set forth. For brevity, the name of each affected county will be set forth, followed by six separate categories. Most of these categories are self-explanatory. They are as follows: **TOTAL POPULATION**—showing the total population in such county. **WHITE** designating the number of persons in such county of white descent. **NEGRO**, the number of Negro descent; **INDIAN**, the number of persons classified as Indian descent. **SPECIFIED**—this includes those inhabitants of the Japanese, Chinese, Filipino, Hawaiian or Korean races. **REPORTED**—these persons reported of being of an unspecified race other than white.

It is admitted that such computations are for the complete counties in dispute. It is alleged, however, that for the purposes of this defense it can be assumed that the same ratios between whites and Indians should hold insofar as the disputed territory is concerned to the whole county. The Table of Population for such disputed areas is as follows:

#### MELLETT COUNTY

|                  |      |
|------------------|------|
| Total Population | 2420 |
| White            | 1591 |
| Negro            | 1    |
| Indian           | 822  |
| Specified        | 1    |
| Reported         | 5    |

This analysis shows that sixty-six percent (66%) of the residents of Mellette County are whites, while thirty-four percent (34%) are Indians.

#### TRIPP COUNTY

|                  |      |
|------------------|------|
| Total Population | 8171 |
| Whites           | 7668 |
| Negro            | 1    |
| Indian           | 501  |
| Specified        | 1    |
| Reported         | 0    |

This analysis reveals that the population of Tripp County consists of ninety-four percent (94%) whites and six percent (6%) Indians.

#### GREGORY COUNTY

|                  |      |
|------------------|------|
| Total population | 6710 |
| White            | 6383 |
| Negro            | 3    |
| Indian           | 318  |
| Specified        | 2    |
| Reported         | 4    |

This analysis shows that the population of all of Gregory County consisted of ninety-five percent (95%) whites, and five percent (5%) Indian.

#### LYMAN COUNTY

|                  |      |
|------------------|------|
| Total population | 4060 |
| White            | 3469 |
| Negro            | 1    |
| Indian           | 588  |
| Specified        | 1    |
| Reported         | 1    |

Such analysis shows that the entire population of Lyman County consisted of eighty-five (85%) whites and fifteen percent (15%) Indian.

It is apparent that a majority of the persons residing within such disputed counties are white. Such persons did



not become residents in such areas with the understanding that they were residing without the State of South Dakota, and within the territorial boundaries of the Rosebud Sioux Indian Reservation. Until the commencement of this action, such white inhabitants were not told by the Plaintiff that such was the case.

#### ASSESSED VALUATION OF PORTIONS OF THE DISPUTED TERRITORY

All of the territory within that area now claimed as a portion of the Rosebud Sioux Indian Reservation, hereinafter for convenience designated as "disputed" territory, is subject to taxation, levied in pursuance to laws enacted by the South Dakota Legislature. At all times since the opening of such disputed territory to settlement, and after the grant of a United States Patent, such taxation have been assessed and collected, or land sold for nonpayment of the taxes. At no time has such tax payments inured to the benefit of the Plaintiff. At no time, to these Defendants' knowledge, has the Plaintiff sought to gain control of such taxes.

The total valuation of real estate and personal property assessments, excluding the utility property, in all of the disputed counties has been certified by the Commissioner of Revenue as of August 28, 1972. Because of the limited amount of territory of Lyman County lying in such disputed area, Lyman County is omitted. All of such valuation figures are for the total assessments in the entire county. Such certification shows the following valuation as of the date mentioned.

#### MELLETTTE COUNTY

|                   |                 |
|-------------------|-----------------|
| Real Estate       | \$10,011,714.00 |
| Personal property | 5,070,278.00    |

#### TRIPP COUNTY

|                   |               |
|-------------------|---------------|
| Real Estate       | 39,048,820.00 |
| Personal property | 13,725,386.00 |

#### GREGORY COUNTY

|                   |               |
|-------------------|---------------|
| Real Estate       | 24,443,690.00 |
| Personal property | 10,752,705.00 |

Such valuation of property, both real estate and personal property, has resulted from many factors, including the labor and diligence on the part of white inhabitants of such disputed areas. Such shows a tremendous growth in the development of such disputed area since homesteading. Such economic growth has resulted from the recognition by everyone, including the Plaintiff, that this disputed territory, in fact, is a part of the State of South Dakota and is not a portion of the Rosebud Sioux Indian Reservation.

#### SCHOOL DISTRICT EXPENDITURES

The State of South Dakota, mainly through the establishment of local school districts, operates the public schools in the disputed territory.

All of such school districts were developed mainly by the contribution of funds from either the State, the county or local school districts. None of such educational system was developed by the cooperation or initiative of the Plaintiff. Rather, for fifty years the Plaintiff, along with the State of South Dakota and the counties wherein the disputed territory lies, treated such areas as within the State of South Dakota, for educational purposes, and as being without the boundaries of the Rosebud Sioux Indian Reservation. This allegation must be true, for if not, the obligation to furnish such educational opportunity to youths would have been on the Plaintiff or the

Federal Government, with no obligation of any kind upon the State of South Dakota or any subdivision thereof.

Each of the school districts embraced in the disputed area have reported their total receipts for the fiscal year of 1971-71, and have broken such receipts down into the agencies contributing thereto. Such contributions will be shown for each of the school districts, under the following classifications: (1) TOTAL RECEIPTS—monetary receipts from all sources; (2) LOCAL RECEIPTS—payment mainly from the assessment and taxation of the residents in the school district; (3) COUNTY PAYMENTS—payments mainly from educational funds collected at the county level; (4) STATE PAYMENT—the total of payments made from the state treasury; (5) STATE AID—the amount of the state payment resulting from payments to such school district during the stated fiscal year as distributed in pursuance to the minimum foundation program; (6) STATE APPORTIONMENT—the amount of moneys apportioned to such school district from the interest of the South Dakota School Fund; (7) FEDERAL AID—the complete receipts from all federal aid; (8) 815 FUNDS—distributions from Federal Government from “815” Funds; (9) 874 FUNDS—distributions by Federal agencies under Public Law 874 (impacted areas); (10) INDIAN EDUCATION—Federal funds to educate Indians; (11) EDUCATION ACT—federal distributions in compliance with Titles I, II and III of the Federal Elementary Education Act.

GREGORY IND. SCHOOL DIST. #111 (in disputed area of Gregory County)

|                    |              |
|--------------------|--------------|
| 1. Total receipts  | \$672,316.21 |
| 2. Local receipts  | 490,557.82   |
| 3. County payments | 2,008.42     |

|                            |           |
|----------------------------|-----------|
| 4. State Payments          | 75,451.54 |
| 5. State aid               | 55,937.50 |
| 6. State apportionment     | 16,680.00 |
| 7. Federal aid             | 50,379.39 |
| 8. 815 Funds               | 0         |
| 9. 874 Funds               | 0         |
| 10. Indian education funds | 0         |
| 11. Education Act          | 42,000.00 |

BURKE IND. SCHOOL DIST #114 in disputed area of Gregory County)

|                            |            |
|----------------------------|------------|
| 1. Total receipts          | 460,536.70 |
| 2. Local receipts          | 350,872.97 |
| 3. County payment          | 1,382.55   |
| 4. State payment           | 57,917.94  |
| 5. State aid               | 44,925.80  |
| 6. State apportionment     | 11,456.33  |
| 7. Federal aid             | 30,024.31  |
| 8. 815 Funds               | 0          |
| 9. 874 Funds               | 0          |
| 10. Indian education funds | 0          |
| 11. Education Act          | 25,104.00  |

WOOD IND. SCHOOL DIST #30 (Mellette County)

|                        |              |
|------------------------|--------------|
| 1. Total receipts      | \$278,053.34 |
| 2. Local receipts      | 193,629.75   |
| 3. County payment      | 7,019.54     |
| 4. State payment       | 31,872.55    |
| 5. State aid           | 23,104.58    |
| 6. State apportionment | 1,299.27     |
| 7. Federal aid         | 35,414.41    |
| 8. 815 Funds           | 0            |
| 9. 874 Funds           | 16,518.00    |
| 10. Indian education   | 0            |
| 11. Education Act      | 17,000.00    |



WHITE RIVER IND. SCHOOL DIST. #29 (Mellette County)

|                        |            |
|------------------------|------------|
| 1. Total receipts      | 510,141.39 |
| 2. Local receipts      | 254,828.44 |
| 3. County payment      | 7,213.44   |
| 4. State payment       | 68,101.94  |
| 5. State aid           | 53,318.62  |
| 6. State apportionment | 11,180.46  |
| 7. Federal aid         | 178,508.91 |
| 8. 815 Funds           | 0          |
| 9. 874 Funds           | 77,247.00  |
| 10. Indian education   | 60,832.40  |
| 11. Education Act      | 30,309.42  |

NEW COLOME IND. SCHOOL DIST. #120 (Tripp County)

|                        |            |
|------------------------|------------|
| 1. Total Receipts      | 314,483.94 |
| 2. Local receipts      | 224,028.85 |
| 3. County payment      | 1,654.81   |
| 4. State payment       | 56,124.77  |
| 5. State aid           | 40,629.49  |
| 6. State apportionment | 7,833.28   |
| 7. Federal aid         | 12,874.27  |
| 8. 815 Funds           | 0          |
| 9. 874 Funds           | 0          |
| 10. Indian Education   | 0          |
| 11. Education Act      | 11,834.19  |

WINNER IND. SCHOOL DIST. #110 (Tripp County)

|                        |              |
|------------------------|--------------|
| 1. Total receipts      | 1,354,267.08 |
| 2. Local receipts      | 1,035,093.70 |
| 3. County payment      | 13,412.05    |
| 4. State payment       | 181,484.77   |
| 5. State aid           | 136,180.17   |
| 6. State apportionment | 41,831.82    |
| 7. Federal aid         | 117,908.98   |

|                      |           |
|----------------------|-----------|
| 8. 815 Funds         | 0         |
| 9. 874 Funds         | 18,472.00 |
| 10. Indian Education | 21,010.00 |
| 11. Education Act    | 52,845.65 |

The disputed area in Lyman County lies within several independent school districts, and no adequate or accurate computation of the school receipts in such area may be made.

A recapitulation of the total receipts for school purposes, in the disputed area, as above outlined, reveals that during school year fiscal 1971-71 such school districts received total receipts of \$3,589,798.66. Of this amount, local school district contributed \$2,572,827.38, the counties contributed \$32,690.81, and the State, through state aid and apportionment contributed \$470,953.51. The total contribution from State or its subdivisions being \$3,078,471.70 or some 85.7% of such total receipts.

#### HIGHWAY DEVELOPMENT IN DISPUTED AREA

Over the years the State of South Dakota and its political subdivisions developed a highway system in the disputed area. The Plaintiff at no time assisted in either the construction, development or maintenance of such system. It must be admitted that on the "State Trunk System" federal funds have implemented (sic) the state funds, but such federal funds as utilized have been grants to the State of South Dakota, and not grants for the aid and benefit of the Plaintiff.

All of such highway development has occurred, with the acquiescence and consent of the Plaintiff, as a development of the State of South Dakota, and its subdivisions, and not as development within the interior boundaries of the Rosebud Sioux Indian Reservation.

As of December 31, 1971, the mileage of highways existing in the disputed area, together with the designation of the type of highway that has been developed, is shown on the following table:

| COUNTY                                                 | State<br>Trunk<br>Mileage | County<br>system<br>Mileage | County<br>secondary<br>(unorg.<br>twp.) | Mileage as of December 31, 1971 |                 |          |
|--------------------------------------------------------|---------------------------|-----------------------------|-----------------------------------------|---------------------------------|-----------------|----------|
|                                                        |                           |                             |                                         | Township                        | City<br>Streets | Total    |
| Gregory (west<br>of 99th mer.)                         | 140.01                    | 296.25                      | 114.33                                  | 483.49                          | 35.26           | 1,069.35 |
| Lyman (ori-<br>ginal Reserv.<br>So. of White<br>River) | 10.35                     | 16.74                       | ---                                     | 30.90                           | ---             | 58.07    |
| Mellette                                               | 127.91                    | 264.82                      | 100.22                                  | 346.12                          | 8.82            | 847.89   |
| Tripp                                                  | 150.76                    | 611.61                      | 5.91                                    | 1,290.59                        | 29.60           | 2,088.47 |
| TOTAL                                                  | 429.04                    | 1,189.42                    | 220.46                                  | 2,151.18                        | 73.68           | 4,063.78 |

## SIXTH DEFENSE (Estoppel)

Plaintiff ought not be admitted to say that any of the disputed area herein in controversy is within the territorial boundaries of the Rosebud Sioux Indian Reservation, because the history of the development of such disputed area, subsequent to the opening of such area for homesteading by white settlers works an estoppel of such an allegation, by the Plaintiff.

The factual matters set forth in Fifth Defense, raising the issue of laches, is made a part of this defense, by reference, as if fully set forth herein.

WHEREFORE, the above named Defendants, and each of them, pray that the Court declare:

That all of the territory heretofore put into controversy by the Amended Complaint of the Plaintiff be declared to not be within the boundaries of the Rosebud Sioux Indian Reservation, nor within that area designated as "Indian Country" but, rather is and remains territory within the jurisdiction of the State of South Dakota.

That the Amended Complaint of the Plaintiff be dismissed, with costs and disbursements to the Defendants, and for such other and further relief to the Defendants as to the Court may seem just and equitable.

DATED this 12th day of October, 1972.

## ORDER ADDING PARTIES DEFENDANT (1/11/73)

Upon Plaintiff's motion and good cause appearing and pursuant to Rule 21, Federal Rules of Civil Procedure, therefore it is ORDERED:

(1) That Gordon Mydland is hereby dismissed as a party defendant herein upon him leaving the office of the Attorney General for the State of South Dakota;

(2) That Kermit A. Sande, upon his assumption of the office of the Attorney General for the State of South Dakota, shall become a party defendant herein and unless he chooses to file an additional answer within 20 days of his taking office, he shall be bound by the answer of his successor, Gordon Mydland;

(3) That the United States of America is made a party defendant hereto and that upon service on the required federal officers of this order and a copy of the complaint therein, they shall have 60 days to make such answer as they may deem required.

Dated this 10th day of December, 1972.

BY THE COURT:

/s/ ANDREW W. BOGUE  
Andrew W. Bogue  
U.S. District Court

---

#### ANSWER OF DEFENDANT UNITED STATES

(3/21/73)

Comes now the defendant United States of America and for its Answer to plaintiff's Complaint, states and alleges as follows:

##### I.

Denies each and every material and allegation of the Complaint except those Paragraphs specifically admitted.

##### II.

Admits Paragraph I of plaintiff's Complaint.

##### III

Denies that Paragraph II waives the sovereign immunity of the United States.

##### IV.

Admits Paragraph IV through Paragraph XVIII.

##### V.

Denies the allegations in Paragraph XIX as they relate to 18 U.S.C. § 1151, however, defendant United States of America would admit this Paragraph if 18 U.S.C. § 1153 were used.

##### VI.

Denies Paragraph XX insomuch as it is the position of the defendant United States of America that the Federal Court has jurisdiction by virtue of various provisions found in Title 28 of the United States Code.

##### VII.

Defendant United States of America lacks information sufficient to admit Paragraph XXI and therefore denies the same.

##### VIII.

Defendant United States of America admits Paragraph XXII of plaintiff's Complaint.

Dated this 20th day of March, 1973.

---

[Opinion reported in 375 F. Supp. 1965 printed in Appendix to Petition for Writ of Certiorari, pp. 63-113]

---

[Judgment — Printed in Appendix to Petition for Writ of Certiorari, p. 114]

---

### NOTICE OF APPEAL (3/13/74)

The Plaintiff hereby appeals to the United States Court of Appeals for the Eighth Circuit from the final judgment entered in this action of February 15, 1974.

[Subscription Omitted in Printing]

---

### UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

74-1211

September Term, 1974

Rosebud Sioux Tribe,

Appellant,

vs.

Hon. Richard Kneip, Governor of  
the State of South Dakota, et al.,

Appellees.

)  
)  
) Appeal from the  
) United States  
) District Court  
) for the District  
) of South Da-  
) kota.  
)  
)

Counsel for the parties to this appeal are directed to file simultaneous supplemental briefs in this cause ad-

ressed to the question of the applicability and effect of the recent Supreme Court decision contained in *De-Coteau v. District Court*, No. 73-1148, and *Erickson v. Feather*, No. 73-1500, which cases were consolidated for decision of the Supreme Court of the United States, reported in 43 U.S.L.W. 4321 under date of March 3, 1975. The simultaneous briefs are to be in typewritten form, on letter-size paper, fastened in the left margin and are to be filed within thirty days from the date of this order. An original and four copies are to be filed with the clerk of this court and copies served on opposing counsel. No further argument will be required after the filing of simultaneous, supplemental briefs.

March 12, 1975

---

[Opinion reported in 521 F.2d 87 — Printed in Appendix to Petition for a Writ of Certiorari, pp. 1-61]

---

[Judgment — Printed in Appendix to Petition for Writ of Certiorari, p. 61]

---





Land.  
4450-1900

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS  
Washington, February 8, 1900.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to be in receipt, by reference from the Acting Secretary of the Interior, for consideration, report and recommendation, of a letter dated January 17, 1900, from Hon. Robert J. Gamble enclosing a copy of H.R. 4740, 56th Congress, 1st Session, which provides as follows:

"Be it enacted, &c: That the Secretary of the Interior be, and he is hereby, authorized and directed to appoint a commission of three members to treat with the Sioux Indians within the Rosebud Reservation, in the State of South Dakota, for the cession to the United States government of all Indian land in Gregory County, South Dakota".

In submitting the aforesaid bill Mr. Gamble states that Gregory County was organized by the Governor of South Dakota about two years ago; that a large part of the county is covered by the Rosebud reservation, the portion open to settlement being so limited that it is difficult to maintain the county organization; that the part of the county open to settlement is largely occupied by settlers who are very anxious to have the government take action looking to the cession of that portion of the county within the limits of the Rosebud reservation; that he does not understand any particular number of

allotments have been made to the Indians within the limits of the county; and that inasmuch as it would be a great benefit to that portion of the State and to its people he would be glad to have the measure meet with the approval of the Department.

Respecting this bill, I have the honor to state that the portion of the Rosebud reservation the cession of which it is proposed to secure constitutes the eastern portion of the reserve. It comprises about 21 townships or in the neighborhood of 480,000 acres of land. The office is informed that there are about 350 Indians residing on Ponca Creek within the limits of the proposed cession and that these Indians have made their selections for allotments.

Any agreement negotiated with the Indians of the Rosebud reservation for the cession of any of their lands would require the signatures of at least three-fourths of the male adult Indians residing or belonging thereon (Article 12 of the treaty with the Sioux Indians dated April 29, 1868—15 Stats., page 639). If the consent of three-fourths of the male adult Indians can be obtained to an agreement ceding that portion of their reservation proposed by the aforesaid bill, the office would not be disposed to oppose its ratification.

It is suggested, however, that in the event of legislation authorizing such negotiations as proposed by this bill the same be amended by providing for conducting such negotiations through a United States Indian Inspector instead of having a commission appointed consisting of three members to negotiate such agreement. It is believed that more satisfactory results would be obtained by having an Inspector conduct such negotiations and the expense incurred in connection therewith in the latter case would only be nominal.

I would therefore recommend that if such legislation is had as the aforesaid bill proposes, the same be amended so as to provide for negotiations through an Indian Inspector.

The letter of Mr. Gamble, with the enclosed bill, is returned herewith, and I enclose a copy of this report.

Very respectfully,  
Your obedient servant,  
W.A. Jones,  
Commissioner.

(J.R.W.)  
P.

Land  
7210-1900.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
Washington, February 9, 1900.

The Honorable,

The Secretary of the Interior.

Sir:-

Referring to the reference on the 7th instant to this office by the Acting Secretary of the Interior of a letter by Hon. J. S. Sherman dated February 5, 1900, enclosing certain H.R. Bills for reports thereon, among which is included *No. 4740, 56th Congress, 1st. Session*, authorizing negotiations with the Indians of the Rosebud Reservation, South Dakota, for that portion of their reservation situated in Gregory County, I have the honor to invite attention to office report of the 7th instant upon said

bill, the same having been referred to this office by the Department for that purpose, with a letter dated January 17, 1900, by Hon. R. J. Gamble, who introduced the same. A copy of said report is enclosed herewith.

The said bill is returned herewith. I also enclose copy of this letter.

Very respectfully,  
Your obedient servant,  
W. A. Jones,  
Commissioner.

J.R.W.  
C

DEPARTMENT OF THE INTERIOR,  
Washington, February 13, 1900.

COPY.

Hon. Robert J. Gamble,  
House of Representatives.

Sir:-

I have the honor to acknowledge the receipt of your letter of the 17th ultimo, and accompanying H.R. 4740, "A Bill authorizing the cession of certain Sioux Indian lands."

This bill authorizes the Secretary of the Interior to appoint a Commission of three members to treat with the Rosebud Sioux Indians for cession to the United States Government of all lands in Gregory County, South Dakota.

In response thereto I transmit, herewith a copy of a communication of the 8th instant, from the Commis-

sioner of Indian Affairs, in which recommendation is made that if such legislation is had as this bill proposes, that the same be amended so as to provide for negotiations through an Indian Inspector.

I approve of the recommendation of the Commissioner.

Very respectfully,  
Secretary.

421, Ind. Div. 1900.

1004, " " "

1 inclosure.

M.E.W.

---

DEPARTMENT OF THE INTERIOR,  
Washington, February 13, 1900.

The Chairman of the  
Committee on Indian Affairs,  
House of Representatives,

Sir:-

I have the honor to acknowledge the receipt of your letter of the 5th instant, and accompanying H.R. 4740, "A Bill authorizing the cession of certain Sioux Indian land."

In response thereto, you are advised that under date of the 17th ultimo, H.R. 4740 was transmitted to the Department for favorable consideration by Mr. Gamble, House of Representatives, and your attention is respect-

fully invited to the correspondence had with him in the matter, copies herewith.

Very respectfully,  
/s/E. A. Hitchcock  
Secretary.

819, Ind. Div. 1900.

1005, " " "

3 inclosures.

M.E.W.

---



[#1A]

(Legislative History of H.R. 4740)

[33 Cong. Rec. 380 (1899)]

*Sioux:*

\* \* \*

\_\_\_\_\_bills to provide for cession to United States of  
certain lands of (see bills S. 1767; H.R. 4740)

\_\_\_\_\_

[33 Cong. Rec. 291 (1899)]

H.R. 4740—

Authorizing the cession of certain Sioux Indian land.  
Introduced by Mr. Gamble and referred to Committee  
on Indian Affairs 594.—Reported back with  
amendment (H.R. Report 486) 2520.

\_\_\_\_\_

[33 Cong. Rec. 594 (1899)]

By Mr. GAMBLE: A bill (H.R. 4740) authorizing the  
cession of certain Sioux Indian land—to the Committee  
on Indian Affairs.

\_\_\_\_\_

[33 Cong. Rec. 2521 (1900)]

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, Mr. GAMBLE, from the  
Committee on Indian Affairs, to which was referred the

bill of the House (H.R. 4740) authorizing the cession of  
certain Sioux Indian land, reported the same with  
amendment, accompanied by a report (No. 486); which  
said bill and report were referred to the House Calendar.

\_\_\_\_\_

[#1B]

(House of Representatives Report to accompany  
H.R. 4740)

[H.R. Rep. No. 486, 56th Cong., 1st Sess. (1900)]

CESSION OF CERTAIN SIOUX INDIAN LAND.

---

March 3, 1900.—Referred to the House Calendar and  
ordered to be printed.

---

Mr. GAMBLE, from the Committee on Indian Affairs,  
submitted the following

R E P O R T.

[To accompany H.R. 4740.]

The Committee on Indian Affairs, to whom was referred the bill (H.R. 4740) authorizing the cession of certain Sioux Indian land, having had the same under advisement, make the following report, and recommend that the bill do pass with the following amendments:

Strike out the following words where the same appear in lines 4 and 5, "commission of three members to," and insert in lieu thereof the following: "United States Indian inspector to negotiate and."

Strike out the word "cession," where the same appears in line 6, and insert in lieu thereof the following words: "purchase and release."

Insert after the word "all," where the same appears in line 7, the following word: "unallotted."

Insert after the word "land," where the same appears in line 7, the following words: "belonging to said tribe."

The measure has the indorsement of the Interior Department, and letters to that effect are herewith submitted from the Secretary and Commissioner of Indian Affairs and made a part of this report.

The lands now open to settlement within the limits of Gregory County are limited in area. In the year 1898 the county government was organized. Although most of the lands open to settlement are occupied, the territory is so limited and the population so few in number the burdens of local government are too onerous to be borne with advantage to the community. The people are anxious that this particular part of the reservation be opened and opportunity given for settlement and development of that region of the State. It would add a larger population, increase the wealth and production, and relieve the burdens of necessary and legitimate taxation.

The committee is informed the Indians are willing to treat for a cession of the lands in question. To do so would be carrying out the policy of the Government in this particular and in harmony with treaty stipulations and the provisions of the law of 1889, in the opening to settlement of the ceded portions of the Great Sioux Reservation. Those Indians have made their selection for allotments, and this bill only relates to the surplus lands of the reservation which are not used and unnecessary to the support and maintenance of the tribe. The Indians have their full allotments, and they are ample for their use. By opening the lands to occupation and development it would inure to the benefit of the people, the community, the State, and to the Indians themselves.

---

## DEPARTMENT OF THE INTERIOR

*Washington, February 13, 1900.*

SIR: I have the honor to acknowledge the receipt of your letter of the 17th ultimo, and accompanying H.R. 4740, "A bill authorizing the cession of certain Sioux Indian lands."

This bill authorizes the Secretary of the Interior to appoint a commission of three members to treat with the Rosebud Sioux Indians for cession to the United States Government of all lands in Gregory County, S. Dak.

In response thereto I transmit herewith a copy of a communication of the 8th instant from the Commissioner of Indian Affairs, in which recommendation is made that if such legislation is had as this bill proposes, that the same be amended so as to provide for negotiations through an Indian inspector.

I approve of the recommendation of the Commissioner.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

Hon. Robert J. Gamble,

*House of Representatives.*

## DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

*Washington, Feb. 8, 1900.*

SIR: I have the honor to be in receipt, by reference from the Acting Secretary of the Interior, for consideration, report, and recommendation, of a letter, dated January 17, 1900, from Hon. Robert J. Gamble, inclosing a copy of House bill No. 4740, Fifty-sixth Congress, first session, which provides as follows:

*"Be it enacted, etc.,* That the Secretary of the Interior be, and he is hereby, authorized and directed to appoint a commission of three members to treat with the Sioux Indians within the Rosebud Reservation, in the State of South Dakota, for the cession to the United States Government of all Indian land in Gregory County, South Dakota."

In submitting the aforesaid bill Mr. Gamble states that Gregory County was organized by the governor of South Dakota about two years ago; that a large part of the county is covered by the Rosebud Reservation, the portion open to settlement being so limited that it is difficult to maintain the county organization; that the part of the county open to settlement is largely occupied by settlers who are very anxious to have the Government take action looking to the cession of that portion of the county within the limits of the Rosebud Reservation; that he does not understand any particular number of allotments have been made to the Indians within the limits of the county; and that, inasmuch as it would be a great benefit to that portion of the State and to its people, he would be glad to have the measure meet with the approval of the Department.

Respecting this bill, I have the honor to state that the portion of the Rosebud Reservation, the cession of which it is proposed to secure, constitutes the eastern portion of the reserve. It comprises about 21 townships, or in the neighborhood of 480,000 acres of land. The office is informed that there are about 350 Indians residing on Ponca Creek within the limits of the proposed cession, and that these Indians have made their selections for allotments.

Any agreement negotiated with the Indians of the Rosebud Reservation for the cession of any of their lands would require the signatures of at least three-fourths of



the male adult Indians residing or belonging thereon (article 12 of the treaty with the Sioux Indians, dated April 29, 1868, 15 Stats., p. 639). If the consent of three-fourths of the male adult Indians can be obtained to an agreement ceding that portion of their reservation proposed by the aforesaid bill, the office would not be disposed to oppose its ratification.

It is suggested, however, that in the event of legislation, authorizing such negotiations as proposed by this bill the same be amended by providing for conducting such negotiations through a United States Indian inspector instead of having a commission appointed, consisting of three members, to negotiate such agreement. It is believed that more satisfactory results would be obtained by having an inspector conduct such negotiations, and the expense incurred in connection therewith in the latter case would only be nominal.

I would therefore recommend that if such legislation is had as the aforesaid bill proposes, the same be amended so as to provide for negotiations through an Indian inspector.

The letter of Mr. Gamble, with the inclosed bill, is returned herewith, and I inclose a copy of this report.

Very respectfully, your obedient servant,

W. A. JONES, *Commissioner*.

The Secretary of the Interior.

---

[#2]

(Legislative history of S. 1767, 56th Cong., 1st. Sess. (1899); the Senate companion bill of H.R. 4740 involving treating with Sioux Indians for cession of certain lands of the Rosebud Reservation.)

[33 Cong. Rec. 380 (1899)]

*Sioux:*

\* \* \*

\_\_\_\_\_bills to provide for cession to United States of certain lands of (see bills S. 1767; H.R. 4740).

\_\_\_\_\_  
[33 Cong. Rec. 54 (1899)]

S. 1767—

Authorizing the cession of certain Sioux Indian land.  
Introduced by Mr. Pettigrew and referred to Committee on Indian Affairs 561.

\_\_\_\_\_  
[33 Cong. Rec. 561 (1899)]

Mr. PETTIGREW

\* \* \*

He also introduced a bill (S. 1767) authorizing the cession of certain Sioux Indian land; which was read twice by its title, and referred to the Committee on Indian Affairs.

---

[#3]

(Memorial of South Dakota legislature petitioning Congress to treat with Indians for cession of portion of Rosebud Reservation.)

[34 Cong. Rec. 152 (1901)]

*Rosebud Reservation:* memorial of legislature of South Dakota to restore to public domain portion of 3556.

[34 Cong. Rec. 3556 (1901)]

#### MEMORIAL.

Mr. KYLE presented the following joint resolution of the legislature of South Dakota; which was ordered to lie on the table, and to be printed in the Record:

STATE OF SOUTH DAKOTA, DEPARTMENT OF STATE.  
UNITED STATES OF AMERICA,

*State of South Dakota, Secretary's Office:*

I, O.C. Berg, secretary of state of the State of South Dakota, do hereby certify that the attached instrument of writing is a true and correct copy of joint resolution No. 6, as passed by the seventh legislative assembly of South Dakota, as the same appears of record in this office and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota. Done at the city of Pierre this 27th day of February, 1901.

[SEAL.] O. C. BERG, *Secretary of State.*  
House joint resolution No. 6.—A joint resolution and memorial requesting the Congress of the United States to treat with the Indians for the cession and opening for white settlement and free homestead entry all that portion of the Rosebud

Indian Reservation lying within the boundaries of Gregory County, S. Dak.

*Be it resolved by the house of representatives of the legislature of South Dakota (the Senate concurring):*

Whereas there is in the organized portion of Gregory County, S. Dak., about six Congressional townships, said tract being too small in area, population, and assessed valuation to successfully maintain a county government without causing such government to become unduly burdensome; and

Whereas there is also within the boundaries of said Gregory County, S. Dak., about 23 Congressional townships of agricultural land which forms a part of the Rosebud Indian Reservation, and upon which are living a few Indians who have all taken their allotments in severalty; and

Whereas it is understood that the Indians are willing for a reasonable compensation to cede all that portion of the reservation herein mentioned to the Government; and

Whereas the ceding of said portion of the reservation to the Government would still leave a sufficiently large and suitable territory to meet all the requirements of an Indian reservation, while at the same time the ceding and opening to white settlers of all that portion of said reservation above referred to would add to the productive farming land of the State, enlarge the area of Gregory County to a proper and desirable size, and greatly lessen the expense of maintaining the government of said county: Therefore, be it

*Resolved,* That we respectfully petition and memorialize the Congress of the United States to treat with the Indians at the earliest practicable date for the cession of all that portion of the Rosebud Indian Reservation lying within the boundaries of Gregory County, S. Dak., and that said tract be open to free

homestead entry by white settlers; and be it further *Resolved*, That we hereby request our Senators and Representatives in Congress to use their best efforts to effect the object prayed for in this memorial; and the secretary of state is hereby instructed to forward copies of this memorial to our Senators and Representatives in Congress.

---

[#4]

(March 19, 1901, letters to Secretary of Interior and Indian Inspector J. McLaughlin from W. A. Jones, Commissioner of Indian Affairs concerning negotiations with Sioux for cession of portion of the Rosebud Reservation.)

Land  
14,319-1901,

DEPARTMENT OF THE INTERIOR  
OFFICE OF INDIAN AFFAIRS  
Washington, March 19, 1901,

The Honorable

The Secretary of the Interior,  
Sir:

The office has the honor to acknowledge the receipt, by your reference of March 14, 1901, of a letter dated March 8, 1901, from Hon. R.J. Gamble, requesting that prompt action be taken in the matter of negotiating with the Indians of the Rosebud reservation for the cession of that portion of their lands in Gregory County, South Dakota. Senator Gamble invites attention to the provision contained in the Indian Appropriation Act for the coming fiscal year, approved on the third instant, authorizing such negotiations with any Indian tribe through a United States Indian Inspector, and encloses a copy of a Joint Resolution by the 7th Legislative Assembly of South Dakota, memorializing the Congress of the United States to treat with the Indians named for the cession of the lands indicated, to the United States.

In accordance with your directions the office has prepared and transmits, herewith, a draught of instructins for the guidance of the U.S. Indian Inspector in conducting the proposed negotiations. Attention is invited to the fact that the provision of law authorizing these negotia-



tions makes no appropriation for the purpose of paying any proper expenses incurred in connection therewith. It therefore becomes necessary to call upon the U.S. Indian Agent for said Indians to afford the Inspector such assistance as he may require in the conduct of the work. If, therefore, you will advise the office what Inspector is designated for this duty and when he will be likely to reach the Rosebud reservation, the office will give Agent McChesney proper instructions in the premises.

Very respectfully,  
Your obedient servant,

/s/ W. A. Jones  
Commissioner.

(J.R.W.)  
P.

---

OFFICE OF INDIAN AFFAIRS,  
DEPARTMENT OF THE INTERIOR,  
WASHINGTON,

March 19, 1901.

U.S. Indian Inspector  
Sir:

The Indian Appropriation Act for the next fiscal year, approved March 3, 1901, (Public No. 137), contains the following provision respecting negotiations with Indian tribes for the cession of lands:

"That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to negotiate, through any United States Indian Inspector, agree-

ments with any Indians for the cession to the United States of portions of their respective reservations or surplus unallotted lands, any agreements thus negotiated to be subject to subsequent ratification by Congress".

In connection with the foregoing provision the Department has concluded to authorize negotiations with the Indians of the Rosebud reservation, in South Dakota, for the cession of the unallotted eastern portion of their reserve, as hereinafter indicated. There are, it is understood, some desirable agricultural lands in that portion of the reserve and the proposition to secure the cession of the unallotted portion thereof was first suggested during the first session of the 56th Congress, when bills providing for authority to negotiate for the cession of that portion of the reserve embraced in Gregory County were introduced in Congress. The particular reason put forward for such action was that the larger portion of said county was embraced in the Indian reservation and that the remainder of the county supported so small a population it was difficult to maintain the county organization.

The bills referred to were not, however, enacted into law.

Since the enactment of the provision above quoted Hon. R. J. Gamble has invited the attention of the Department thereto, and has requested that negotiations for the cession of that portion of the Rosebud reserve included in Gregory County be had at an early day in order that an agreement may be secured and presented to Congress for its action at the opening of its next session.

The western boundary of Gregory County, as shown by the maps of South Dakota, is the range line between ranges 73 and 74. The portion of the reserve embraced in said county is as nearly as can be estimated about 21

townships or 480,000 acres. The north line of Gregory County is the township line between townships 99 and 100 north. A further examination of the map will show that in order to preserve the regularity of the reservation boundary in the event that a cession is made the townships east of the west boundary line of Gregory County in township 100, to wit., fractional township, range 71 and townships, ranges 72 and 73 lying in Lyman County, should also be ceded. The last named townships embrace an additional area of nearly 50,000 acres, thus making the total area of the tract proposed to be ceded about 530,000 acres—including allotted lands.

The records of the Indian Office at the present time show that 423 allotments in severalty have been made to the Indians within the portion of the reservation in question. The larger portion of these are along Ponca Creek and especially in township 95 north, ranges 69, 70 and 71 west. Whether allotments have been made to all of the Indians in the Ponca Creek district the Department is not informed, but it is presumed that nearly all of the Indians have been so allotted. Heretofore where cessions of portions of Indian reservations have been made by Indians who had not yet received their allotments in severalty, it has been the practice to insert in the agreement a provision to the effect that any Indians having homes and improvements within the ceded portion might elect to remove to the diminished reservation—the improvements to be sold for their benefit, or removed as they might choose. In the present instance however allotments in severalty to the Indians residing within the district under consideration have been formally made in accordance with the general plan or policy of the Department, and for this reason a general removal of the allotted Indians in that district would not be favored. It is understood that most of the lands allotted

in that district are of excellent quality—better no doubt than could now be procured for the purpose on the diminished reservation. Another consideration is that such removal, if permitted, would, as shown by former experiences of the Indian Department in similar cases tend to keep the Indians affected in an unsettled state for some time to come.

This feature of the matter and the views of the Department in regard to it should be fully explained to the Indians assembled in council and especially to those immediately concerned. It should be made perfectly clear to them that in the event of the cession of their surplus lands the same will be opened up to public settlement and they will be brought into immediate contact with the whites.

The consideration to be paid the Indians for the surplus lands in question should be a fixed, definite, lump sum. It is impossible for the Department to indicate the price to be paid. It should however be just and fair both to the Indians and to the United States. In fixing upon the price you should not lose sight of the fact that no doubt a great deal of the choicest land within the district named has been allotted, leaving the less desirable portions. In the agreement made with the Rosebud Indians on March 10, 1898, providing for the location of certain Lower Brule Indians upon the Rosebud reservation the consideration was fixed at \$1.25 per acre for lands actually required as allotments for such Lower Brules. This of course contemplated the selection of the choicer lands and cannot, it is thought, be taken as an index in determining the price to be paid for the surplus lands now under consideration.

The total area of the allotments in the Ponca Creek district, so far as the records of the Indian Office show is approximately 97,600 acres. Deducting this—from the



estimated total area of 530,000 acres leaves a surplus of 432,400 acres. In this connection it is suggested that Special Allotting Agent Winder be called upon for information as to any additional allotments within said district not yet reported to the Indian Office and the area of the same in order that proper deduction may be made. In the agreement concluded, if any, provision should be made for allotments to any other Indians within said district who may request the same, and for these proper deduction should also be made.

Respecting the disposition to be made of the proceeds arising from the proposed cession, if any be effected, the Department feels that this is a subject requiring most careful and earnest consideration on your part. From ample experience the Department is convinced that cash annuities and the issuance of rations for any extended period of years to Indians is most detrimental to their present and future welfare. Idleness and lack of self dependence are fostered by the ration and annuity systems, and it is believed that they are one of the great drawbacks to the progress of Indian tribes toward civilization. Any provisions, therefore, in the agreement with the Rosebuds which would enable them to live without putting forth at least as great effort as at present to gain a livelihood, would be regarded, necessarily, as a backward step. The Sioux Indians, as a tribe, especially, have the lesson of industry and self dependence yet to learn. The Rosebud Indians in the completion of their allotments in severalty are now entering upon a new era in their tribal history, and it is most important that their future needs under the changed conditions likely to ensue from their having received such allotments, should be most carefully considered.

The special needs of the Rosebuds should therefore be inquired into. Their Indian Agent should also be con-

sulted. A plan for the disposition of the proceeds should be formulated that will tend to promote the welfare of the Indians and start them on the road to civilization and self support. Stock cattle, it is suggested, should be purchased with a portion of the proceeds. The question of irrigation should also be inquired into and if irrigation be practicable on the reservation provision therefor should be made. The educational needs of the Indians should receive attention, and if any additional facilities are required they should be provided for. The question of providing for the construction of houses and the purchase of additional farm implements, wagons, harness, etc., should also be looked into, and if needed, provision therefor should be made. But the agreement should not provide for the payment of any large sum or sums to the Indians in cash.

As above indicated, the proposition for the cession of the surplus lands in question did not come from the Indians themselves. No undue pressure should therefore be brought to bear upon them to enter into an agreement. If, after assembling them in council, and after fully explaining to them the purpose of the same, they should refuse to cede the lands referred to, you should report the fact fully to the Department. If, however, an agreement is concluded, the same must be executed in proper form for acceptance and ratification by Congress, and it should contain a provision to the effect that it must be so ratified in order to make it valid. In this connection attention is invited to Article 12 of the Sioux treaty of April 29, 1868, (15 Stats., 635), which provides that no treaty for the cession of lands with said Indians shall be valid unless executed and signed by *at least three-fourths* of all the adult male Indians occupying or interested in the same. Should the signatures of three-fourths of the adult male Indians be procured, a

certificate by the U.S. Indian Agent should be attached giving the total number of Indians of the reservation entitled to sign and stating that those who have signed constitute at least three-fourths or more.

The minutes of all the council proceedings should accompany the report of your actions to the Department under these instructions, whether an agreement is executed or not.

The act under which these negotiations are to be conducted, it will be observed, carries with it no appropriation out of which to defray expenses and the Department has no general fund available out of which it can pay any such expenses. Proper instructions will be given to the Indian Agent, therefore, to co-operate with and assist you so far as he is able in conducting the proposed negotiations and to afford you such help as you may require.

Should there be any points upon which you desire further information or instructions you should promptly advise the Department of the fact and request the same.

Very respectfully

/s/W. A. Jones  
Commissioner

(J.R.W.)

P.

Approved  
Secretary.

---

[#5]

(Legislative history of S. 2992, 57th Cong., 1st Sess. (1902)—a bill to ratify an agreement with Sioux Indians for cession of certain lands of the Rosebud Reservation.)

[35 Cong. Rec. 377 (1901-1902)]

*Rosebud Reservation* bills to ratify agreement with Indians on (see bills S. 2992, H.R. 9057)

- amendment in Senate to bill (S. 2992) to ratify agreement with Sioux Indians on 4855.
- letter of Secretary of Interior transmitting agreement with Indians on (S. Doc. 31) 206, 245, 1279.

---

[35 Cong. Rec. 81 (1901)]

S. 2992—

To ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation to carry the same into effect. Mr. Gamble: Committee on Indian Affairs 751.—Reported back with amendments (S. REPORT 662) 2477.—Passed over in Senate 2717, 2882, 3187, 3450, 3541, 3756, 4424.—Debated 4569, 4608, 4715, 4750, 4800, 4801, 4855, 4911, 4963, 4965, 5013, 5019.—Passed Senate 5024.—Referred to House Committee on Indian Affairs 5198.—Reported back with amendment (H.R. REPORT 2099) 5613.

---

[35 Cong. Rec. 751 (1902)]

Mr. GAMBLE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Indian Affairs:

\* \* \*

A bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation to carry the same into effect.

---

[35 Cong. Rec. 2477 (1902)]

Mr. GAMBLE, from the Committee on Indian Affairs, to whom was referred the bill (S. 2992) to ratify an agreement with the Sioux tribes of Indians of the Rosebud Reservation in South Dakota, and making appropriations to carry the same into effect, reported it with amendments, and submitted a report thereon.

---

[35 Cong. Rec. 2717 (1902)]

#### AGREEMENT WITH SIOUX TRIBE.

The bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation to carry the same into effect, was announced as the next business in order.

Mr. PLATT of Connecticut. I shall desire to discuss this bill at a greater length than is allowed under the rule.

It is not a unanimous report of the Indian Affairs Committee. It involves the whole question of public policy about what we are going to do with these Indian reservations, and I shall desire to take some time in its discussion. I think the bill had better stand over, retaining its place on the Calendar.

The PRESIDENT pro tempore. The bill will be passed over, retaining its place on the Calendar.

---

[35 Cong. Rec. 2882 (1902)]

#### SIOUX TRIBE OF THE ROSEBUD RESERVATION.

The bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect, was announced as next in order.

Mr. KEAN. I think the Senator from Connecticut [Mr. PLATT] is interested in the bill, and I suggest that it go over.

The PRESIDENT pro tempore. The bill will go over without prejudice.

---

[35 Cong. Rec. 3187-3188 (1902)]

#### AGREEMENT WITH INDIANS OF ROSEBUD RESERVATION

The bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect, was considered as in Committee of the Whole.



The bill was reported from the Committee on Indian Affairs with amendments. The first amendment was, in section 3, on page 5, line 18, after the word "missions," to insert" and lands reserved for common schools as provided in section 4 of this act;" so as to read:

That the lands ceded to the United States under said agreement, excepting such tracts as may be reserved by the President, not exceeding 398 67/100 acres in all, for subissue station, Indian day school, 1 Catholic mission, and 2 Congregational missions, and lands reserved for common schools as provided in section 4 of this act, shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry.

The amendment was agreed to.

The next amendment was, at the end of the bill, to insert the following as a new section:

SEC. 4. That sections 16 and 36 of the lands hereby acquired in each township shall not be subject to entry, but shall be reserved for the use of the common schools, and the same are hereby granted to the State of South Dakota for such purpose; and in case either of said sections, or parts thereof, of the lands in said county of Gregory is lost to said State of South Dakota by reason of allotments thereof to any Indian or Indians now holding the same, or otherwise, the governor of said

State, with the approval of the Secretary of the Interior, is hereby authorized, in the tract herein ceded, to locate other lands not occupied, in quantity equal to the loss, and such selection shall be made prior to the opening of such lands to settlement.

The amendment was agreed to.

Mr. PLATT of Connecticut. I move to amend the bill in section 3, on page 6, line 18, by striking out after the word "acre," down to and including the word "that" before the word "homestead," in line 25, and inserting the word "and" before the word "homestead."

The PRESIDENT pro tempore. The amendment proposed by the Senator from Connecticut will be stated.

The SECRETARY. In section 3, on page 6, line 18, after the word "acre," it is proposed to strike out:

But settlers under the homestead law, who shall reside upon and cultivate the land entered in good faith for the period required by existing law, shall be entitled to a patent for the lands so entered upon the payment to the local land officers of the usual and customary fee and commissions, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry, except that.

And insert "and," so as to read:

*And provided further,* That the price of said lands shall be \$2.50 per acre, and homestead settlers who commute their entries under section 2301, Revised Statutes, shall pay for the land entered the price fixed herein.

Mr. GAMBLE: Mr. President, the bill submitted to the Senate for consideration was prepared by the Interior Department, and has its approval and indorsement. Two amendments were suggested to the bill by the Committee

on Indian Affairs, and they have already been adopted by the Senate. The amendment proposed by the Senator from Connecticut [Mr. PLATT] eliminates that provision in the bill in regard to the opening of the lands to free homes. These lands are situated in the southern part of South Dakota, west of the Missouri River, and adjoining the great Sioux Reservation. The Government agrees to pay the Indians \$2.50 per acre for the land proposed to be ceded. The lands affected by this agreement involve about 521,000 acres. Of that amount 105,000 acres have been allotted to 452 Indians, leaving, practically, 416,000 acres unallotted and to be thrown open to settlement under this agreement.

Under the provisions of the enabling act authorizing the admission of the State of South Dakota into the Union, sections 16 and 36 in every township were reserved for school purposes. This provision did not apply to permanent Indian reservations, but became operative when the Indian title was extinguished and the land restored to and became a part of the public domain, this would withdraw about 29,000 acres of these lands and would save 387,000 acres to be opened to settlement, and which would be affected by the proposed amendment.

Mr. President, we believe that the bill as reported by the committee should pass without the amendment submitted by the Senator from Connecticut. It has long been the policy of the Government to open the Western reservations to free homes. The homestead law enacted so many years ago certainly proved of inestimable value, not only to the West, but to the country at large. A different policy was inaugurated some ten or twelve years ago, under which, when reservations were opened, the settler was obliged to pay the same price for the land that the Government paid the Indians for the relinquishment of their title.

Two years since a free-homes bill was passed by Congress after having been discussed at great length, especially in this body. It occurs to us that by that act the homestead policy has been reestablished by the Government. We do not believe it is wise now to reopen that question.

When the bill to open the Crow Reservation in Montana was recently under consideration in this body it passed without any opposition on the part of Senators; and it opened those lands to free homesteads, involving, I think, something like 1,000,000 acres. We believe that the same rule should be applied to the lands in South Dakota, and that this reservation should be opened in like manner.

Settlers who go upon these new lands to open and develop them necessarily meet severe and trying conditions. They are inaccessible and far removed from railway or other facilities of communication. The settlers are obliged to bear all the burdens incident to organizing and developing the local community. They are compelled to build highways and bridges, to erect schoolhouses, and maintain schools, the courts, and jails, and all the expenses of local government. Within the limits of the lands proposed to be opened to settlement there are upward of 450 Indian allottees, and the settlers who take these lands will be obliged to assume the responsibilities of the local community practically unaided by the Indians, and to bear largely all the responsibilities that heretofore have been borne by the General Government.

The Indians have selected the choicest and best lands along the streams, and the settlers who move in will be obliged to take the more undesirable lands.

I believe the men who settle upon this reservation and bear these responsibilities and who build up these new communities ought to have their lands at the same price



that was paid by other settlers upon adjacent lands of like character. I believe it is nothing more than an act of simple justice, considering the hardships they must endure and the responsibilities they must necessarily assume.

It is a question of policy, and I do not believe we should depart from the one heretofore adopted by the enactment of the free-homes law two years ago.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. STEWART. Mr. President, this question ought to be understood by the Senate.

Mr. PLATT of Connecticut. Will the Senator from Nevada permit me a moment, as I moved the amendment which is pending?

Mr. STEWART. I want to speak to that amendment.

Mr. PLATT of Connecticut. I wish to make a single suggestion.

Mr. STEWART. All right. I yield to the Senator.

Mr. PLATT of Connecticut. I had hoped that the Senator from South Dakota [Mr. GAMBLE] would accept the amendment, as the Senator from North Dakota [Mr. HANSBROUGH] accepted the amendment in relation to the bill opening up the Devils Lake Reservation, and I want to say now that if this amendment is to be opposed the bill can not be disposed of this morning.

Mr. STEWART. Mr. President, I wish to make merely a remark or two in order to call the attention of the Senate to the situation we are in. Although the Indians have no title, except the title of occupancy, the Government is bound to take care of them, and to see that justice is done them. For the most part we have submitted to the Indians the fixing of the price of the lands which we have purchased. As the land is settled, the Indians put up the

price according to the price of adjoining lands that are cultivated by white people. In this very case the committee had much doubt whether the land was worth \$2.50 an acre; but they finally consented to report the bill, because the Senator from South Dakota insisted that it would be detrimental and ruinous to the State of South Dakota to have settlement there tied up in this way, and that these lands ought to be opened.

If Congress should exercise the power to fix a reasonable price on the land we open, and pay the Indians for it, there would be no serious objection to free homesteads; but if the Indians are to fix an exorbitant price, the Government pay it, and then open the land to free homes, there would be great friction before we disposed of these millions of acres of land. This raises a very serious question. I was in hopes the Senators from South Dakota would avoid the question by adopting the same course which was adopted by the Senators from North Dakota as to the Devils Lake Reservation. They accepted a similar amendment to that bill, and the bill was passed. The Crow Reservation was also opened, and there was probably paid not more than half as much as it was worth in the market, and the Government will be fully reimbursed in that case.

A large portion of this particular reservation will not be worth very much, because it is not arable land. If the Government pays \$1.25 an acre for the land, and that is all the Indians ought to demand, then I should be in favor of opening it to free homesteads, but I am not in favor of paying the Indians a price which is fixed by the value of adjoining land held by white men, and then opening it to free homes, because before we get through with it we shall find that it will involve a vast amount of money.

I make these observations so that the situation may be understood by the Senate. If Congress adopts the policy



of fixing the price of land to be opened and not leave it to the Indians, then we can open it to free homesteads for such price as will be reasonable; but if we leave it to the Indians to fix the price, under the advice of white men around there, then it will become so extravagant that the scheme can not be carried out.

Mr. PLATT of Connecticut. Mr. President, as I remarked a moment ago, I did hope that the Senator from South Dakota [Mr. GAMBLE] would accept the amendment I have offered, which is the same as that placed in the bill opening the Devils Lake Indian Reservation a few days ago, which was accepted by the Senator from North Dakota [Mr. HANSBROUGH], who was interested in opening that reservation, and it was adopted by the Senate.

Manifestly we must have some policy with reference to the opening of these reservations. If the Senator from South Dakota insists on opposing this amendment, we can not discuss this question under the five-minute rule, and I shall be compelled to object to the further consideration of the bill this morning.

I want to say right here and now, however, that the State of South Dakota, as it seems to me, ought to be pretty well satisfied when we pay to the Indians \$2.50 an acre for this land and then give to the State of South Dakota two sections, amounting in value to something over \$75,000, which is a clean gift of so much money from the Government to the State of South Dakota, without any obligation whatever on the part of the Government to do so.

The Senator from South Dakota said that when the State of South Dakota was admitted to the Union there was a provision in the enabling act that two sections in each township should be reserved for school purposes. That is true, Mr. President; but there was also an express

proviso in that act that that reservation should not apply to any land which was then within an Indian reservation. So the amendment which has been already adopted is a clean gift to the State of South Dakota of \$2.50 an acre for all the lands embraced in those two sections in each township, which would amount, I think, to something about \$75,000, without pretending to be accurate about it.

Mr. President, this is a question which is very much larger and more far-reaching in its importance than the mere question of whether this bill is to pass in the form in which it was reported by the committee, or whether the amendment I have proposed shall be adopted. It is true that several years ago—more than ten years ago, I think—in opening Indian reservations, we paid large and extravagant prices for land to the Indians, upon the theory that the Government was going to be reimbursed for its expenditures by the settlers paying for the land which they settled upon a sufficient sum to reimburse the Government. That went on for years, and everybody supposed that that was acceptable to the settlers. Then the settlers began to agitate that the Government should remit to them the obligation which they had incurred to pay for the land, and thereby reimburse the Government; and the history of that agitation of course is well known. The Government remitted about \$35,000,000 which it had paid to the Indians and which the settlers had agreed to repay to the Government by the passage of that free-homes bill.

I well remember the argument here on that question. It started as to Oklahoma. The ground upon which it was put was not so much that the free-homes policy should be continued where we bought the lands from the Indians, but that this land was in the semi-arid region and it was impossible for the settlers to make the money on

the farms in that semiarid region to pay what they had agreed to pay. The argument was extended beyond Oklahoma to all the lands which had been thus opened to settlement. I do not wish to say, Mr. President, that the Government was imposed upon by that argument, but I do wish to say that since that free-homes bill passed you can not get any person in Oklahoma who will deny that the lands which were thus affected are worth \$20, \$25, and \$30 an acre. The school fund commissioners of Oklahoma, immediately after the passage of that act, reported to the Government that the lands belonging to the school fund in Oklahoma were worth, on an average, \$30 an acre.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. COCKRELL. It is manifest that we can not dispose of this bill under the five-minute rule or under the half-hour rule. So I think it will have to go to the other Calendar.

The PRESIDENT pro tempore. The Senator from Missouri objects to the further consideration of the bill.

Mr. GAMBLE. Will the bill go over without prejudice?

Mr. COCKRELL. It can not be discussed under the five-minute rule, and it is not worth while to keep it on the Calendar under the five-minute rule.

Mr. GAMBLE. Perhaps it might be passed without prejudice this morning.

Mr. COCKRELL. I have no objection to its being passed over without prejudice once.

The PRESIDENT pro tempore. The bill will be passed over without prejudice.

---

[35 Cong. Rec. 3450 (1902)]

The PRESIDENT pro tempore. \* \* \*

The bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect, was announced as next in order.

The PRESIDENT pro tempore. The bill has been read in full.

Mr. PLATT of Connecticut. This bill can not be disposed of under the five-minute rule. I am willing that it shall go over for to-day, keeping its place on the Calendar, but unless the amendment which I proposed is assented to it will have eventually to go over under Rule IX, when we can have a full discussion of it.

The PRESIDENT pro tempore. The bill will go over this morning, retaining its place.

Mr. PLATT of Connecticut. Yes.

---

[35 Cong. Rec. 3541 (1902)]

#### BILLS PASSED OVER.

The bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect, was announced as next in order on the Calendar.

Mr. GAMBLE. I suggest that the bill be passed over without prejudice, retaining its place on the Calendar.

The PRESIDENT pro tempore. It will be passed over, retaining its place.

---

[35 Cong. Rec. 3756-3757 (1902)]

# BILLS PASSED OVER.

Mr. HALE. Now, let us go on with the Calendar.

The PRESIDENT pro tempore. The Calendar under Rule VIII is in order. The first case on the Calendar will be announced.

The bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect, was announced as next in order on the Calendar.

Mr. HALE. I object to the bill. Let it go to the Calendar under Rule IX.

The PRESIDENT pro tempore. The bill goes over and takes its place on the Calendar under Rule IX.

---

[35 Cong. Rec. 4424-4425 (1902)]

The PRESIDENT pro tempore. \* \* \*

The bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect was announced as next in order.

Mr. PLATT of Connecticut. That is a bill which will create a good deal of discussion. I am quite anxious to accommodate the friends of the bill by having it taken up at some time when there can be more than a discussion under the five-minute rule. I think we shall be able to arrange such a time very soon, and it is agreed, I believe, that it may be passed over this morning.

Mr. McCUMBER. Retaining its place on the Calendar?

Mr. PLATT of Connecticut. Yes.

The PRESIDENT pro tempore. The bill will be passed over, retaining its place on the Calendar.

---

[35 Cong. Rec. 4569 (1902)]

# AGREEMENT WITH INDIANS OF ROSEBUD RESERVATION.

Mr. PLATT of Connecticut. Before 2 o'clock arrives, I desire to ask for a unanimous-consent agreement, if I may do so at this time.

The PRESIDENT pro tempore. The Chair recognizes the Senator.

Mr. PLATT of Connecticut. The friends of the bill for opening the Rosebud Reservation are very anxious to have consideration of that bill. It has been objected to because it could not be discussed under the five-minute rule. I desire to move an amendment and to discuss the bill. I therefore ask unanimous consent that after the matter which was under consideration this morning shall be disposed of, that bill may be taken up after the routine business in the morning hour, and discussed without limitation as to time.

Mr. WARREN. Does the Senator from Connecticut ask that it be considered to-morrow, or at some later time than to-morrow?

Mr. PLATT of Connecticut. Whenever the matter which is now under discussion in the morning hour shall have been concluded.

Mr. WARREN. I merely call the Senator's attention to the fact that there is an agreement to go into executive session tomorrow immediately after the morning business.



Mr. PLATT of Connecticut. Well, whenever the opportunity shall occur after the consideration of the matter which has been under discussion this morning.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent that the bill to which he refers may be taken up for consideration in the morning hour after the final disposition of the bill now under consideration in the morning hour, and that there shall be no limitation of the five-minute rule in the debate. Is there objection? The Chair hears none, and the order is made.

Mr. JONES of Arkansas. What is the bill?

Mr. PLATT of Connecticut. It is the bill relative to the opening of the Rosebud Reservation.

The PRESIDENT pro tempore. The number and title of the bill will be stated.

The SECRETARY. Order of Business 675, a bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect.

---

[35 Cong. Rec. 4608 (1902)]

#### AGREEMENT WITH INDIANS OF ROSEBUD RESERVATION.

The bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect was announced as first in order on the Calendar.

The PRESIDENT pro tempore. There has been an arrangement made in relation to this bill. It goes over without prejudice.

---

[35 Cong. Rec. 4715 (1902)]

#### BILLS PASSED OVER.

The PRESIDENT pro tempore. The Secretary will state the first case on the Calendar.

The bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect, was announced as the first business in order on the Calendar.

Mr. PLATT of Connecticut. That has been made the subject of an agreement. It will therefore go over.

The PRESIDENT pro tempore. The bill goes over, retaining its place.

---

[35 Cong. Rec. 4750 (1902)]

#### INDIANS ON ROSEBUD RESERVATION, S. DAK.

Mr. PLATT of Connecticut. I have been anxious to accommodate my friend, the Senator from South Dakota [Mr. GAMBLE], by taking up a bill which stands first on the Calendar under Rule VIII. I do not think there is time to dispose of it this morning. I give notice that to-morrow morning, immediately after the routine business, I will ask the Senate to consider the bill.

Mr. CULLOM. What is the bill?

Mr. PLATT of Connecticut. It is the bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect.

---

[35 Cong. Rec. 4800-4807 (1902)]

# AGREEMENT WITH INDIANS OF ROSEBUD RESERVATION.

Mr. PLATT of Connecticut. I ask that we may take up Senate bill 2992, the first bill on the Calendar under Rule VIII, and that the discussion may proceed without the five minutes' limitation.

The PRESIDENT pro tempore. The Senator from Connecticut asks that the Senate proceed to the consideration of the bill (S. 2292) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation to carry the same into effect, and that the debate upon the bill shall not be subject to the limitations of Rule VIII. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDENT pro tempore. The bill has been read in length as in Committee of the Whole.

Mr. GAMBLE. The amendment offered by the Senator from Connecticut [Mr. PLATT] is pending.

Mr. PLATT of Connecticut. When the bill was up before I proposed an amendment, which does not appear on the bill. I have not the amendment with me. If I could find the Record I would turn to it.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In section 3, page 6, line 18, after the word "acre," strike out down to and including the word "that," is line 25, and insert the word "and;" so that the additional proviso, if amended, would read:

*And provided further,* That the price of said lands shall be \$2.50 per acre and homestead settlers,

who commute their entries under section 23 of the Revised Statutes, shall pay for the land entered the price fixed herein.

Mr. PLATT of Connecticut. At the request of the Senator from North Dakota [Mr. McCUMBER], I yield to him for a few moments.

\* \* \*

# AGREEMENT WITH INDIANS OF ROSEBUD RESERVATION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation to carry the same into effect.

Mr. PLATT of Connecticut. Mr. President, this bill and the amendment which I have proposed to it present a very serious question of our public policy. I regret that other matters have so engrossed my attention that I am not particularly prepared to present the question which is thus raised. I may say in the outset that the question involved here means a great many millions of Government expenditure if it should be decided in one way, and it incidentally affects our whole Indian policy.

This is a bill for the opening of the Rosebud Reservation in South Dakota. I do not remember at this time the exact number of acres which are thus to be opened by the bill, but the price to be paid to the Indians is something over a million dollars. The question is whether the Government, in opening the lands to settlement, shall give the lands thus purchased from the Indians to the settlers under the homestead law, or whether it shall require the settlers who take up these

lands under the homestead law to pay for them a sum per acre equivalent to what the Government pays the Indians for them. In other words, in opening the Indian reservations which already remain, what is to be the policy of the Government? Are we to pay the Indians a high price for the lands which we obtain a cession of, and then give those lands to settlers free of cost, or shall we require the settlers to pay as much for the lands as will make up wholly for the amount which we have paid for them? That is the question, and Senators will see that it is a far-reaching question.

I do not know how many million acres still remain in Indian reservations which must in the future be opened to public settlement, but there are many millions, and, at the rate we have been paying the Indians under the agreements made with them for such lands, the amount to be expended in the not very distant future will run up into the millions. At a rough calculation I would say that probably the Government in opening the reservations already existing and paying the Indians for the lands at the rate which we have been paying under the agreements negotiated with them will expend somewhere in the neighborhood of \$50,000,000. That may be over or under the mark, but approximately and for the purpose of presenting this question it may be assumed as a fair statement.

Now, shall the Government pay these millions of dollars to acquire the Indian title and give away the lands to the settlers, or is it but just that if settlers require these lands they shall pay for them per acre the same which the Government pays to the Indians?

It has seemed to me, Mr. President, that there is no injustice whatever in asking a settler who may go upon the lands thus acquired from the Indians to pay for them what the Government pays the Indians. I am not satisfied

that the Government has been doing the right thing in paying to the Indians the high prices which it has agreed to pay for the lands thus acquired. Of course, the Indian title is an occupancy title; it is not a title in fee. The title to these lands is in the Government of the United States, subject to whatever rights the Indians have, whether by treaty or otherwise, to hold the lands so long as they remain a tribe and occupy them. There is no question about the nature of the title. If the Indian tribe became extinguished or ceased to occupy the lands they would be Government lands and belong to the public domain.

Now, it seems to me that in negotiating with the Indians for the cession of their reservations the Government ought not to pay them what those lands are worth in fee, or indeed anything approaching it, but that they should be negotiated with upon the theory that their title is worth what the lands are worth for their occupation and without reference to the enhanced value which has come to be put upon the lands in fee on account of the settlement of the country surrounding the Indian reservations. But another policy seems to have prevailed.

Of course it goes without saying that where there is an Indian reservation all the settlers upon the public lands in the vicinity of that reservation are anxious to acquire the lands which are not needed by the Indians, and so there is a pressure that each Indian should have an allotment of lands of 160 acres, or as the case may be, and that then the remaining lands should be open for settlement. That pressure is very great. It presses upon every Indian reservation. The reservations are now within the States largely. The State of South Dakota has, I think, something like 8,000,000 acres of land still contained in Indian reservations, and in other States and in the Territories there are other quantities of land in reservations.



Now, the pressure for the opening of this land is great. I do not think anyone who does not live in the vicinity of those reservations understands how great it is. Therefore, it is insisted that the Interior Department shall negotiate with the Indians for the opening of the reservations, and a bill passes here without any consideration at all directing that the Secretary of the Interior shall negotiate with this or that tribe of Indians for an agreement for the allotment of their lands and the ceding of their surplus lands to the United States, and a commission goes there for that purpose.

Indeed, we have a general bill which has been passed without much consideration providing that the Interior Department may send an inspector to negotiate with the Indians for the opening of the surplus lands of the reservations to settlement, and then the settlers and Senators representing the inhabitants of the States press the Interior Department to hurry up the negotiations, and a commission or an inspector is sent out to negotiate with the Indians, the result of which is that the Indians say, "Why, these lands are worth five, ten, fifteen, twenty dollars an acre. Look over there, just on the other side of our reservation, you can not buy any lands for less than that sum, and we must have what the lands are worth." Then the inspector or the commission feeling that an agreement must be made, negotiate as well as they can with the Indians, and when they get them down to the lowest price it is accepted, and an agreement is sent here to be ratified.

Now, this particular agreement comes here to be ratified upon a payment to the Indians of about \$2.50 an acre for the surplus lands within their reservation which are under the agreement to be ceded to the United States and become part of the public domain. The Indians in negotiating said that was not a fair price for the lands and

they were worth a great deal more, but finally the negotiation was concluded. The agreement comes here. So far as the Senate considers it, it is an agreement to open a reservation—to pass ordinarily without any particular examination or any thought of the consequences to the Government in the matter of expense. I will not go into the history of the negotiations as to these lands, but the price paid or agreed to be paid to the Indians is \$2.50 an acre for the entire acreage which is to be brought under the public domain by cession to the United States.

The bill proposes that the land thus acquired shall be open to homestead settlement without requiring any payment for the land settled upon from the settler. My amendment proposes that the settler shall pay \$2.50 an acre, being the same which the Government has agreed to pay to the Indians, and that thus the Government shall be reimbursed for the amount expended for the purchase.

Mr. President, this is said to be in opposition to a policy of the Government supposed to have been declared when we passed last year what was known as the free-homes bill, and that opens a large question. Before I come to that, however, I wish to say that we have already passed two bills in the Senate in which there was incorporated a provision that the settlers should pay to the Government for the land settled upon a sum equivalent to that which had been paid by the Government to the Indians for opening the reservations. The Devils Lake Reservation was one of them, at \$3.50 an acre, and the other, which was passed on the motion of the Senator from Minnesota [Mr. CLAPP] the other day, was the Red Lake Reservation, at \$3.90 an acre.

The Senate has, then, in the passage of those two bills adopted the principle which I ask to have adopted on this amendment. It is but fair to say that it has passed one bill, for the opening of the Crow Creek Reservation, in

which no such provision has been made. If Senators ever remember what other Senators have said they would remember that when that bill was under consideration I called attention to it, but under the circumstances, I did not at that time propose such an amendment as I have proposed to the pending bill.

Now, coming to the question whether by the passage originally of the homestead act and by what has been more recently known as the free-homes bill we are bound to buy lands from the Indians for settlement and then give those lands to the settlers or not, I have some observations to make upon that subject. I can not see what obligation there is upon the Government on account either of the homestead act or the free-homes bill to continue the policy of buying lands from the Indians to give to settlers any more than to buy them from citizens of the United States to give to settlers.

I can not see why we should spend a million dollars to buy Indian land and then give it as a free gift to anybody who chose to settle upon it any more than we should spend a million dollars to buy the farms of citizens in Connecticut and South Dakota or in any other State and give those lands to people who desire to settle upon them. I can not see how in South Dakota we should buy lands from Indians on a reservation, paying a million dollars for them, and then give away those lands to settlers any more than we should pay a million dollars to people residing just off the reservation for the purchase of their farms and give the land they acquired to people who desire to settle upon it. Neither the homestead law nor the free-homes bill commits the Government to any such policy as that.

Now, we go back to the homestead law. At the time the homestead law was passed we certainly had not been buying lands for the purpose of giving them away to

settlers. Certainly that had not been the policy of the Government up to that time. We had been extinguishing Indian titles in the West at a very moderate price, sometimes as low as 5 cents an acre and even less. We had been extinguishing the Indian title until we had acquired a vast domain of public land which was then being sold.

I do not know that I can state exactly what the old laws were, but up to the time of the passage of the homestead act the Government had been selling lands or offering them for sale at a specified price, and if the price was not obtained opening them under what is called the preemption laws, allowing people to enter upon them. Up to the time of the passage of the homestead act we had certainly not been buying lands to give away. Neither did we do it under the homestead act. We had the lands. They had been acquired, not for the purpose of immediate settlement, but for the purpose of extinguishing the Indian title and holding the lands as a part of the public domain.

Then came the agitation of the proposed homestead law, and it passed. It dealt with and had reference to a great bulk of public land which we had thus acquired, which under our policy of sale had not netted the Government as much as it ought to have done, and in regard to which there had been great frauds and speculators had acquired large portions of the public domain without paying any very adequate price for them.

Then the homestead act was passed, and the lands were taken up under the homestead laws, which required a settler in order to obtain final title to his land to live upon it and cultivate it for five years or to commute it at a specified rate. That policy was continued from 1862 up to 1880. I do not think that during all that time it can be said that any lands were bought of the Indians for the purpose of immediate settlement.



But in 1880 there were a large number of Indians roaming over the State of Colorado. The bands of the Confederated Ute Indians were occupying very large portions of the State and negotiations were had with those Indians by which they agreed, without going into particulars, to surrender their claim—their title to lands in the State of Colorado—and to remove southward into Utah and elsewhere, under an act of Congress, by the terms of which the lands thus surrendered by the Indians should be sold and the Indians paid for them at the rate of \$1.25 an acre, and that the settlers, when they took the lands, should pay \$1.25 an acre to the Government.

That, to my mind, changed the policy of the Government, and we adopted a new policy; that is, that when we bought lands from the Indians and opened them to settlement, we would require the settlers to pay the Government for them as much as the Government had paid to the Indians. Colorado has been settled under that act, and the settlers have paid \$1.25 an acre for the land, and that money has been passed over to the Confederated bands of Ute Indians. That policy continued up to the time of the opening of public lands in Oklahoma and in South Dakota. We were forward, and we paid the Indians large prices for their lands.

It will be remembered that as to the Cherokee Strip, we paid, I think, an average of \$6 an acre for those lands; and for lands occupied by Indian tribes in Oklahoma we paid all the way from \$1.25 to \$2.50 and even \$3 an acre.

In the act which opened those lands to settlement there was a provision that the settlers should pay to the Government a certain price per acre, which was enough to reimburse the Government. That went on in South Dakota and in other places, and wherever land was purchased from the Indians it was required in the act

which opened the land for settlement that the settlers should pay enough to reimburse the Government.

Senators will remember the agitation which arose for the remission to the settlers of the money which they had agreed to pay in settling upon these lands in Oklahoma. The question arose first in Oklahoma. It was put upon the ground, not so much that the Government ought to buy lands from the Indians, and then give them away, as upon the ground that these lands belonged to the subarid region, and that it was impossible for the settlers upon them to make off of the farms, upon which they had thus settled, money enough to meet their obligations to the Government. Senators will remember the maps which were brought in here, on which the arid and subarid regions were pictured, to show where the settlers had gone. The demand that the obligation should be released in Oklahoma was taken up in South Dakota, so as to embrace all the lands as to which this policy had prevailed, of requiring payments from the settlers to reimburse the Government. As in various other cases where great pressure is raised, that bill was passed. The people interested in it got it into the platforms of both political parties, where, of course, very little was known as to the effect of it, and the bill finally went through the Senate.

Shortly after the bill passed the Senate there came a change in the estimate of the value which was placed on these lands. I think I am not mistaken in saying that within a year after the free-homes bill passed the school-fund commissioner of Oklahoma made a report in which he said the average value of the land belonging to the school fund in Oklahoma was \$30 an acre.

We have been told that on account of the subarid conditions it was impossible for the farmers or settlers upon these lands ever to discharge their debt to the



Government, and the time of payment has been extended and extended year after year because they could not meet their payments. But immediately after we passed the bill they began to boast of the value of their lands.

Very soon after the passage of the free homes bill, indeed, at the time of its passage, there was an act providing for the opening of the Wichita Reservation, and in that act, as in the other acts we have passed, there was a provision that the settler should pay for the lands he took, so as to reimburse the Government. Those lands had not been opened at the time of the passage of the free-homes bill, and so that bill did not apply to them; the settlers were not released from the obligation to pay a dollar and a quarter an acre for these lands, and that law stands. Those lands in the Wichita Reservation have not been taken up under the act requiring the settlers to pay \$1.25 an acre for the lands settled upon.

I think, Mr. President, that is true with regard to the opening of the Kiowa and Comanche Reservation. It will be remembered that there was such a rush for those lands that the question had to be determined by lottery, and that, I imagine, will be the case with reference to the lands referred to in this bill. There will have to be some method to determine as to how the settlers shall take the lands.

When we opened the Colville Reservation, if I am not mistaken, we required the same policy to be pursued; that is, that the settlers should pay for the lands.

So, since the passage of the free-homes bill up to the time of the passage through the Senate of the Crow Creek Reservation bill, we have been insisting that the settler should pay a sum sufficient to reimburse the Government for the land he takes. As I said before, I see nothing inconsistent with either the policy of the homestead law or the policy of the free-home act in that respect. It is

true that the question of free homes was talked about at the time of the passage of that bill; but that was not a bill to buy land of the Indians at full prices and then give the lands away to settlers. It was to release the settlers from their obligation to pay the Government what they had agreed to pay in taking up the lands. It was put, in the first instance, upon the ground of their inability to pay the amount. So that this comes up as a new question. It has got to be settled now, and as it is settled now it will probably remain the policy of the country.

We gave away to the people who had settled upon Government lands, under an understanding and agreement that they were to pay for them, a good many million dollars—say \$20,000,000—and it has been stated to be a larger sum than that. I put it within bounds when I say that we released to them \$20,000,000. If that was right—if the settlers were entitled to free homes without paying the Government for the land what the Government had paid to the Indians—we ought not to stop there, but we ought to refund to the people who have settled Colorado a dollar and a quarter an acre; we ought to refund to the people who have settled the Wichita Reservation their dollar and a quarter an acre, and wherever at any time we have required that settlers should pay for the lands thus opened we ought to refund to them the price paid. It is just as much our duty to do that as it was our duty to release from their obligations those who had made agreements with the Government. We should make no distinction, as it seems to me. But that is neither here nor there. The question is, What are we going to do in the future?

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. PLATT of Connecticut. Certainly.

Mr. SPOONER. I came into the Senate Chamber while the Senator was speaking, and he may have referred earlier in his remarks to the point concerning which I should ask him a question. I ask the Senator if there has been any estimate of the number of acres in the reservations yet to be acquired from the Indians in this country which will probably call for a determination of this question of policy, whether we shall continue to do what we have done, or stop?

Mr. PLATT of Connecticut. I said in the opening that I had not any accurate figures, but I thought it was safe to say that we had still remaining Indian reservations, which were in the near future to be opened to settlement, which would cost the Government in the neighborhood of \$50,000,000.

Mr. COCKRELL. How much did the Senator say?

Mr. PLATT of Connecticut. Fifty million dollars. I should like the opinion of the Senator from Missouri on that. I am not speaking accurately.

Mr. COCKRELL. I have been looking for the exact data, but I have not been able to arrive at the precise sum. It is, however, a large sum—many millions.

Mr. PLATT of Connecticut. Take the State of South Dakota. We are paying her \$2.50 an acre for these lands and they have remaining something like 8,000,000 acres. That is \$20,000,000 by itself. If we continue to open up lands at the same rate and we continue paying to the Indians for these lands, it is a question of \$20,000,000 for the State of South Dakota; and I think that, running through my mind other reservations, I am entirely within the limits when I say that if we go on paying the Indians at the rate we have been paying them for their title, the Government will expend in the very near future at least 850,000,000.

Mr. President, there is really no necessity for this. It will be observed that the taking up of these lands, thus purchased from the Indians and thrown open to settlement, has become very much of a lottery. There is a rush for them, with the "devil take the hindmost." The opening of the Oklahoma Reservation, the Cherokee Reservation, was not so long ago but that the circumstances attending it are in the recollection of Senators. People camped for months on the borders of that reservation, and we were required to send troops down there to prevent the people going in until the time came for the President's proclamation, when they could go in, and then there was a mad rush to get the best lands, with the usual result of a whole crop of claims of fraud in getting upon those lands. Then came the opening of the Kiowa and Comanche Reservation only last year, where similar scenes would have been enacted if it had not been that the Government established a kind of lottery there, and the applicants drew lots as to who should have the first opportunity to make settlement.

So the settlement upon those lands, thus acquired from the Indians, has come to be largely professional. The first push for them is by people who think they are going to make something and get something for nothing. So that in the settlement of these lands it has come to be well known that there are three classes of settlers upon the public lands, first, the professionals, who rush in and through their smartness acquire valuable holdings, with the intention of disposing of them just as soon as they can; second, the people who remain behind, who do not get in at the first rush, and who buy from the speculators and the professional settlers who get in in the first rush. They may be called the middlemen. Finally the land is sold to the real settler, who goes there to make a home and get a living off the farm. Am I not right about that?



Mr. President, why should this be? Why should we buy land from the Indian, giving him practically the value of his land, as if he held it in fee simple, then open it to settlement under the homestead law, and give it to the man who can first get onto it any more than we should buy land from the citizen adjoining the reservation for the same purpose? I do not know but that I have said all I desire or need to say upon this subject. I wished to place the matter clearly before the Senate as it seemed to me. Certainly we have got to do one of two things. We either must, I think, having the interest of the Government in view, stop paying these high prices to the Indians for their land, or we must require the settlers to reimburse the Government.

In regard to that subject, there is a sentiment in the country which holds amongst philanthropists and humanitarians that we ought to pay the Indians what their land is worth at the present time, upon the idea that it belongs to them. I do not share in that idea. I think that when we make an Indian tribe rich we delay its civilization. The easiest Indians in the country to civilize are the blanket Indians, and they have no money, no funds, no lands, no annuities. The Indians in this country who make the most rapid advance toward civilization and citizenship are the Indians who have not any great funds to their credit in the Treasury. The hardest Indians to civilize or to start on the road to advancement to civilization are those who have the largest funds in the Treasury to their credit.

I might illustrate by the Osages, whose fund is the largest per capita of any Indian fund—indeed, the Osage nation is per capita the richest community in the world if their lands and their funds were to be divided among them per capita. It is and has always been utterly impossible to break up their tribal customs or to change

their tribal habits or to get them to cultivate the land to any extent. They simply regard themselves as rich people who are under no obligation to work. I remember, when visiting their reservation at one time, I said to one of them, through an interpreter—a very intelligent Indian, I thought—“Why do not you Indians take up these lands in small holdings, cultivate them, raise wheat, corn, and vegetables, have some stock, and farm the lands as men in my country farm?” “Why,” he replied to me through the interpreter, with an air of superiority, “sir, do your rich men work?”

So, if not impossible, it is almost impossible, to change the habits and customs of the Indians if they have large funds from which they can draw annuities.

I do not want to extend these remarks on the Indian policy in the discussion of this bill; but, as I said, either one or the other policy I have indicated ought to be pursued. We ought not to recognize the fact in dealing with the Indian for the opening of his reservation that he can claim that the land which he cedes to the Government should be paid for at its full value, or we ought to require that, if we are obliged to pay, and do pay, full value or what approximates full value for the land, the Government should be reimbursed.

There is another feature of this case which I wish to present, and which I think should commend itself to the Senators from South Dakota. We have passed here an irrigation bill, and passed it unanimously in the Senate. Its friends—and I think we are all its friends—desire that it shall prevail in the other House; but whether it does or not at this session of Congress, it is apparent that in the near future the Government is to take the money derived from the sale of public lands and apply it to irrigation purposes. But the Government lands from which money can be derived to be applied to irrigation purposes are



pretty much gone. It is the lands which are to be acquired by the opening of these Indian reservations upon which our irrigation friends must rest for their hope that they will acquire any large money from the Government lands for irrigation purposes.

If we make the settlers reimburse the Government for what it has paid the Indians for their lands, what is the result? The Government is going to get back the money, to be sure, but it is going to take it immediately and hand it over for the purposes of irrigation. I do not know how it is in South Dakota, but I think South Dakota is one of the irrigation States in which it is proposed to take the money which is derived from the sale of the public lands and apply it to that purpose. I think this view of the subject should commend itself to those Senators who wish to commence and to extend the irrigation of the arid lands. I think the necessity of enriching those arid lands by irrigation is just as great, to say the least, as the necessity of opening lands not needed to be irrigated to free settlement.

Mr. DUBOIS. Mr. President, it seems to me there is only one thing to do in this case. When the free-homes bill was passed, it set a precedent which I think we are almost bound in honor to follow. I had the honor to be the chairman of the Committee on Public Lands when the free-homes bill was being pressed. I was opposed to it, and I was opposed to it to such an extent that the Senators interested took it out of the charge of the Committee on Public Lands and passed the bill through the Committee on Indian Affairs, where it did not belong. Some Senators, as you know, were very much interested in it.

I was opposed to the free-homes bill unless it should be applied to future reservations as much as to those which had already been opened; and that was, I think, a

perfectly logical and sound position. Now we are again confronted with the question, and we shall be confronted with it every time we open an Indian reservation. The argument in favor of the free-homes bill seemed to be sufficiently sound. At any rate, it convinced both branches of Congress, and the bill was passed.

The Senator from Connecticut [Mr. PLATT] speaks about the settlers reimbursing the Government. The reason the free-homes bill was passed was that the settlers could not reimburse the Government. A commission is sent out, for instance, to conduct negotiations with a tribe of Indians for the relinquishment of certain of their lands on the reservation. All the settlers nearby, and more especially if there is a town adjacent, are exceedingly anxious that a treaty shall be made. The Indians understand this perfectly well, and they put a price on their land which is far beyond what it is worth to anybody. Here is this pressure from all sides, from the settlers, naturally enough, to have these lands opened, thinking that it is going to build up the country at once, and they urge the commissioners to make any trade they can. After four or five conferences the commissioners make an agreement with the Indians and bind the Government to pay them more for the land than it is worth. In the past the settlers have gone in and taken all these lands and found out that they could not pay for them. Every Senator here from the middle West is old enough to know that when a man goes upon public land and reclaims it it costs him sufficient money without paying anything in addition for the land. It is a very hard matter to reclaim wild lands, whether they are timber lands or sagebrush lands. It requires a sufficient expenditure without anything added.

We have an illustration in my State, and I thought the Senator from Connecticut was going to mention it. When

the free-homes bill was passed, at the same session, but a little later, we opened up a reservation in Idaho—the Fort Hall Reservation—a large section adjacent to a town of five or six thousand people. I recollect going down and addressing the Indians myself.

Mr. SPOONER. In what language?

Mr. DUBOIS. In their native language—through an interpreter. [Laughter]

We were very anxious to have these lands opened up adjacent to this town of five or six thousand people. The town is the center of the Indian reservation. The commissioners made an agreement with those Indians by which they were to pay \$15.75 an acre for some of their lands. They were to pay \$10 an acre for land lying along a water course, \$5 an acre for perpetual water rights, and 75 cents annually for maintenance charges. The people will not take up that land. The proclamation opening the reservation will be issued in a month probably, and I know very well what will happen. The people, just as soon as they have taken the land, will appeal to Senators and Representatives in Congress to have the free-homes act applied to them; and that will be the case in almost all of these reservations.

Mr. PLATT of Connecticut. May I ask the Senator a question?

Mr. DUBOIS. Certainly.

Mr. PLATT of Connecticut. Does the Senator think we ought to go so far as that—when we open up irrigable land and require the settlers to pay for the improvement and irrigating the land we ought then to refund that money to the settlers?

Mr. DUBOIS. No; I do not go so far as that, I think in that case a fair price should be fixed or the land sold to the highest bidder. For the other lands in this reservation, which are entirely outside of it, we have to pay \$3.75 an

acre; but the Government had already built this canal; it is Government property, and the Government owns it. In the States of Wisconsin, Indiana, Illinois, and Iowa the public lands were given to the settlers.

Mr. SPOONER. The Government owned those lands.

Mr. DUBOIS. The Government owned those lands, and they were given to the settlers under the then existing land laws. You put the Indians on large tracts of lands in the Western States, and in our country, which we are now trying to settle up, you segregated large sections of land and put Indians on them. They got about as good land as there were out there. And there is no reason—and this point was thrashed over and was the cause of the passage of the free-homes bill—why our people should not have these lands from the Government the same as the older States had their public lands.

Mr. PLATT of Connecticut. I do not wish to interrupt the Senator, but I think he will agree with me that lands in Illinois and Indiana and Ohio—

Mr. COCKRELL. And Missouri.

Mr. PLATT of Connecticut. Were not taken up under the homestead law. They were taken up under the preemption laws and paid for.

Mr. DUBOIS. I do not care how they were taken up. This proposition is to have the lands taken up under the homestead law, which is one of our public land laws. The lands in Missouri, Illinois, and so on, were taken up under the then existing land laws. I thoroughly agree with the Senator from Connecticut that we are paying too much for these Indian lands, and I am willing to go with him and adopt a policy of paying for the Indian lands what they are worth on a fair appraisement and paying no more for them, and not pay a fictitious price set by the Indians on account of the pressure from white men on the outside, and then turning these lands over to



settlement under the homestead act. But I am very much opposed to making the settlers reimburse the Government for what it pays for the Indian lands, knowing as well as the Senator from Connecticut does that in every instance almost the commissioners appointed by the Government have fixed too large a price, and knowing, as we from the West do know from experience, that our settlers can not reclaim these lands and pay this price for them.

Mr. STEWART. Mr. President, there are many embarrassments arising from the unfortunate policy adopted in the early days in the treatment of the Indians. It was assumed that they were different from other human beings and that they would not work. That was not assumed in Mexico or South America, and the result there has been that the Indians constitute probably four-fifths at least, and perhaps nine-tenths, of the population; and they are good, honest, working people, and they have improved. It has not been assumed, either, in British Columbia. I was there a few years ago, and in Victoria I found the Indians of the same tribe that I had found on this side taking contracts, etc. It is a mistake to believe that they will not do under like circumstances as other human beings will do. We commenced with the system of buying them off, of feeding them, of nursing them, of assuming that they would continue to be the wards of the country.

One early day Chief Justice Marshall held that it was the point of all European countries to disregard the title of the natives, and that discovery gave title to the country which made the discovery. It was said that the governments of Europe had title to the land and were not under the obligation of recognizing the native title, and it was not recognized in Spanish-American countries. It was disregarded, and the Indians were treated like other

human beings who were poor and dependent and had to work for a living.

Wherever they have been thus treated the Indians have developed a great capacity for improvement. In my State I saw something of them before I came here, and I opposed reservations. I opposed the feeding of them. I claimed that the Indians were better off if let alone, and we find that is true. They are scattered all over the State in little camps. We find them at work and improving, and they are superior to other Indians. They are different Indians. Of course they are. They are very much superior. You can distinguish them at once from Indians who have been on a reservation. The reservation Indian has not developed at all. Go to the school at Carson, and you can very readily pick out the Indians who come from reservations from those who have been on farms and at work and let alone.

If we had adopted that policy in the beginning we would have had three or four or perhaps ten or fifteen million good Indians. Take human beings, particularly before they have been developed by civilization, and feed them, supply their wants, and they will not exert themselves to supply their needs. I remarked once of the people of this city that if they were surrounded by an army and could not go out of Washington for a couple of generations and were fed and nursed and cared for they would come pretty nearly down to the level of the ordinary Indian; that they would degenerate very rapidly. That is the way we have been treating the Indians.

Now, by Executive order a very large portion of the West has been reserved. We are attempting to open those reservations. Let me tell the Senate some of the difficulties we meet with. There are a lot of leases out. The men who want land for that purpose stand between us and negotiations—ranchers and such. They are men putting up



a fancy price on the Government. They are speculators with the Indians. The Indians see the price of land adjoining theirs, where farms are, selling at a certain price, and they ask the same price, and they will always demand that price. Why should they not? They are fed anyhow; they are independent they do not have to work for a living; they are in comfortable circumstances, and they can wait.

If the lands can be leased and they get the proceeds, while the Government is feeding and educating them, they are not under the common necessity to become civilized. If we continue the policy of letting the Indians fix a fancy price on these lands and we buy them and give them away we shall involve the Government not in \$50,000,000, but in more than \$100,000,000.

The question is whether that is wise policy. The Committee on Indian Affairs have been discussing it during the whole session. They have been discussing the question—what could be done under those circumstances; how far we are bound by the possessory title of the Indian to submit to his terms; whether the Government, having agreed to take care of the Indians, having some right to regulate the contributions it makes and the price it shall pay for the land—

Mr. SPOONER. Will the Senator from Nevada allow me?

Mr. STEWART. Certainly.

Mr. SPOONER. I desire to ask the Senator from Nevada if it be not true that the Indians have possessory title?

Mr. STEWART. No; not in the sense in which that term is used by the Senator from Wisconsin—possessory title which would give him affirmative rights. If a white man was in his position, going on and off the reservation when he pleases, would he get possessory title to 160 acres of land? The Indian is simply a wanderer.

Mr. SPOONER. Will the Senator allow me?

Mr. STEWART. Certainly.

Mr. SPOONER. If the Indian has not possessory title or the right of occupancy, which is the same thing, he has nothing to sell to the Government, has he?

Mr. STEWART. Oh, a sentimental right.

Mr. SPOONER. A sentimental right?

Mr. STEWART. Yes; and we pay a large amount of money. He has no other right but a sentimental right. He does not occupy the land. He goes off of it. He will not stay on the reservation. He does not occupy it at all. He does not have a possessory right in the sense of getting a possessory right to, land by occupying it. He has not fenced it in. He has made no improvements. He goes there occasionally when he wants to and when he does not he stays away. That does not give a possessory right to the land in any legitimate sense. He has a sentimental right. It has been decided that the Indians have no title to the land.

We treat them as if they were our wards, and, I say, treating them as our wards and recognizing the fact that they may roam over this piece of land as long as it is not wanted for any other purpose, and having fed them and taken care of them as wards, never having sold them the land, never having given title but the sentimental title, to say we must pay them their price before we shall open the reservation, is going a long way toward barbarism.

Mr. SPOONER. How did the Indian get the right of occupancy?

Mr. STEWART. He never had it. He does not live on the land. It is only the sentimental right of which I have spoken. He gets that right in Philadelphia. He gets it from the Indian Rights Association, which has pauperized him. Those associations have killed more Indians than ever were killed by the sword, by feeding them and pauperiz-

ing and allowing them to become indolent and diseased and to perish from the face of the earth. The great murderers of the Indians are the Indian Rights Associations, I say, because if the Indians had been let alone there would have been millions of them. But you can not support a community and feed them and still have them independent. They are dependent upon you for food, and therefore they will not work.

Mr. SPOONER. I should like to be permitted to ask a question of the Senator from Nevada, who knows a great deal about this subject, as he does about almost all subjects. I do not want to vote to pay to anybody for nothing money belonging to the people, and if the Indians have nothing to sell I hardly think it is right, in the faithful discharge of duty to the people, to appropriate money received from taxation to buy it of them. I have always supposed if I had a right to occupy a farm as long as I lived or until I surrendered the right, that that right existed whether I lived on the farm or not.

Mr. STEWART. That is too technical for this purpose. It will not apply at all.

Mr. SPOONER. I am asking for information.

Mr. STEWART. I will give you the information if you will let me talk.

Mr. SPOONER. Certainly.

Mr. STEWART. I admit that they have a sentimental right, and that is the only right they have to the land. It was decided in the beginning that they had no title to the land. We undertook to take care of them, to make them our wards. They were permitted to occupy so much land. We did not give them title, and they ought not to hold it and they have not any right to hold it longer than is for their benefit. We have been educating them. We have supplied schools for them. We have supplied places where they can learn trades, and all that. We are trying to

develop them into responsible human beings; and the great drawback is, as the Senator from Connecticut said, that they have money and they are rich and will not work. It is the money which is demoralizing them. There never was a dollar of money given to a hearty Indian that did not do him harm under any circumstances. There never was a time that it did not take from him part of his manhood and degrade them. Anyone can see the difference between those who have been degraded by being fed and those in the North and South who have not been fed. See how superior they are. That is the situation.

But this policy has been established, and we can not destroy it at once. I do not propose to do anything radical. I am in a responsible position as chairman of the Committee on Indian Affairs, I will not disturb a condition of things that has grown up and been established, but in dealing with this subject we ought to consider what is for the benefit of the Indians and not let them dictate our policy; not let them say, "We must have so much for this land or we will not sell it," when at the same time the Government is feeding his children and educating them.

Mr. TILLMAN. Mr. President—

The PRESIDING OFFICER (Mr. FAIRBANKS in the chair). Does the Senator from Nevada yield to the Senator from South Carolina?

Mr. STEWART. Certainly.

Mr. TILLMAN. Have we not had treaties with the Indians for two hundred years by which for certain considerations they have assigned to us as white people their title, whatever it might be, sentimental or otherwise? Does the Senator suppose we are going to change that policy now—

Mr. STEWART. No.

Mr. TILLMAN. And go to war with the remnants who are living—

Mr. STEWART. No.

Mr. TILLMAN. In order to finish up the job of murdering—

Mr. STEWART. No.

Mr. TILLMAN. And killing them all in order to get what little land is left?

Mr. STEWART. No.

Mr. TILLMAN. What does the Senator propose?

Mr. STEWART. I was speaking of the reservations in the West.

Mr. TILLMAN. Are not they there in consequence of treaties made by the Indians with the Government?

Mr. STEWART. Very few of them are of that kind.

Mr. TILLMAN. Whence has come the practice of buying the lands and giving the Indians the money or setting it apart here in the Treasury and using it to educate the Indians and build houses and do different things of that kind? Whence did the authority come?

Mr. STEWART. Congress assumed the authority.

Mr. TILLMAN. Congress assumed authority, under the Constitution or unwritten laws, which are just as binding.

Mr. STEWART. Unwritten laws can not be enforced against the Indians.

Mr. TILLMAN. I believe the Senator has disclosed here that old Western feeling, that there is no good Indian but a dead Indian.

Mr. STEWART. I beg your pardon. I have been a friend of the Indian always. Go to my State where the Indians are. They come to me as soon as I get there. They tell me their troubles, and I have been their friend; and I can say that our Indians are superior to those of any other Western State, because they have not been fed and kept in idleness. We have taught them something of the lesson that they must work.

Mr. TILLMAN. Will the Senator allow me?

Mr. STEWART. Certainly.

Mr. TILLMAN. Is it not because your State is so much of a desert that no white man wants to get in there at all and it is a wonder that Indians can live there?

Mr. STEWART. No: it is not that. We pick our white men.

Mr. TILLMAN. I am not casting any reflection upon the Senator or the citizens of Nevada. It would be against the rules to do that. I am merely asking the Senator for information.

Mr. PLATT of Connecticut. Mr. President, I wish to suggest, in all good nature, that the Senator from South Carolina is violating a rule of the Senate in speaking disrespectfully of a State.

Mr. TILLMAN. I have been thinking some one would draw that rule on me. I saw it torn to tatters by the junior Senator from New York [Mr. DEPEW], and nobody seemed to care about it: and I have seen it torn into tatters a half a dozen times since, and I did not think anyone would spring it on me.

Mr. STEWART. Nevada always receives such suggestions with indifference, because Nevada always considers the source, no matter what State it comes from. It is a matter of envy. We understand that.

Mr. TILLMAN. Will the Senator from Nevada allow me to apologize to Nevada for having even suggested that its arid condition and its heat and its sand and other undesirable qualities alone are responsible. I have great respect for Nevada.

Mr. STEWART. I will allow the Senator to apologize for his gross mistake in regard to Nevada. Nevada has numerous agricultural valleys which will compare favorably with any on earth. It has great agricultural capacity. She is situated away from the market. Ultimately, as the country develops, she will support a large agricultural population.



With respect to mineral resources, I do not think Nevada is equaled in the United States. We labored under disadvantages for a while. The Comstock gave out practically; silver was demonetized, and our people were engaged in silver mining, and did not take to other business very readily. It took some time. Besides, there was in San Francisco a board of stockbrokers who told people there was nothing in Nevada but the Comstock. The Californians kept away. We worked under great disadvantages for years.

I am happy to inform the Senator, and also the Senate, that within the last eighteen months there have been important mineral discoveries made in nearly every county in my State, and some of the richest mines ever known have been discovered. It is not confined to gold or silver or copper or lead, but it contains all the minerals. It is a great mineral State and is forging to the front very rapidly, and instead of sneering at Nevada he will find the people of South Carolina emigrating there very rapidly in the near future. There is no doubt about that. People are coming there from every State in the Union. Nevada will be the pride of the Union. She has produced, it is estimated, about eight hundred millions of gold and silver with her small population. I am glad to have this opportunity to speak for Nevada. It has been reported by the agents that Nevada has the best Indians of any State in the Union, and it is because her people have allowed them to be industrious and have not fed them. They have not been pauperized.

The question is presented right squarely here, Shall these millions of acres of land which have been withdrawn—because they have all been withdrawn without any treaties—for the temporary occupancy of the Indians, whom we are feeling, remain shut up from population, and the people be taxed to feed the Indians in idleness, or

shall we make reasonable arrangements with them. Shall we take care of them as intelligent people shall? Shall we reduce the sentimental right they have to a practical right? The Indians do not need the lands. Why should two or three hundred Indians have four or five million acres of land which they do not cultivate, which they do not utilize, when there are white people around who want homes? Those same white people, poor as they are, are taxed to feed the same Indians. Why not utilize the land which the Indians have? Why not let civilization have some show and not allow sentiment and prejudice and folly and bribery of the Indians to pamperize them? That has been the policy too long.

I shall not do any act or cast any vote against the policy of the Senate. As a Senator I shall go with the policy of the Senate. If it is the policy of the Senate to tie up these lands until the Indians shall consent to sell them at an enormous price, and in the meantime we shall continue to educate the Indian children; if we are to treat the Indians as our wards, while not exercising any of the power of a guardian over them, but upon the other hand allow the ward to dictate to the guardian. I will be governed by the policy. The policy of allowing the Indians to put a fictitious price upon lands valuable to the surrounding whites and which the Indians will not occupy, when they are merely put there temporarily, while the Government is the guardian and takes care of them, will result in much evil and much embarrassment. Much fraud and embarrassment exist now.

I wish to call attention to one point. These lands ought to be opened. There is no doubt about that. In the condition in which the Indians had them, and if it had not been for the labor of the whites, they would not be worth 5 cents an acre. I think we are paying a pretty large price for these lands. We have passed one or two bills in

which I thought the price fixed was reasonable. The one in Montana was very reasonable, and the North Dakota Senators have had some rich lands there, and they consented to an arrangement. If the Government pays this price for the land and gets nothing back, it is simply one of the hardships. There are millions of acres of land in this situation. You have to meet it. As the Senator from Connecticut says, there is a great question involved, and it should be met soberly. Think about it and get at it and do right. Do nothing to offend the Indians. Do nothing that will violate any right.

Mr. CLAPP. Mr. President, it seems to me that this discussion has drifted somewhat from the real subject-matter under consideration. There is no use in discussing the past policy with reference to the Indian question. We are confronted with a condition. The Indians hold their reservations under treaties, and there is not any use in beating about the bush. We are met primarily by the proposition. Can the Indians dictate the price which the Government shall pay for the reservations? If they can, then it is idle to say that we pay too much or that we ought not to pay what they demand. They are either in a position, owing to their title under the treaties, to demand a price or they are not; and there is no halfway ground with reference to these treaty rights.

Mr. President, the people of the United States must gradually absorb these reservations for two reasons. In the first place, it must be done for the benefit of the Indian himself, for it is demonstrated by experience that the more rapidly the Indians are separated the better it is for the Indians. Then civilization demands that the reservations shall be gradually absorbed. So I say we have to contemplate the acquisition of these reservations, and the Senate is not ready, nor is the House ready, nor is public opinion yet ready, whatever may be the abstract

right of the Indians, to ignore that right and say that we may proceed upon our own motion to acquire the reservations. It seems to me that that absolutely disposes of the question, not only with reference to this treaty, but other treaties, whether we pay too much for the lands or not. In each case the question must present itself whether the interest of the Indians and the interest of the people warrant the price paid; or, in other words, warrant the opening of the reservation.

Now, when we come to the disposition of the lands thus acquired, it seems to me that we do not stand at the threshold of the adoption of a policy and that no question of policy is concerned, for the reason that in every one of these reservations the value of the land depends upon the surrounding circumstances. It was only last week, I think, that we secured the ratification of a treaty with Indians in northern Minnesota, where we most gladly permitted a price to be put upon the land in its sale to settlers, because that reservation was surrounded by a settled community and the land had a value beyond ordinary public land. The land itself was valuable in its own character.

There may be another reservation entirely separate and distinct where the land around it has not been taken, where settlement has not given the land in the reservation a value, or where the character of the reservation itself is such that it does not possess inherently any value.

So it seems to me, Mr. President, it is not the adoption of a policy and it has no reference to the free-homestead policy whatever, but it is a simple proposition whether as to this reservation or that reservation we should make the land free or whether we should put a price upon it. It seems to me that as to this reservation, in view of the situation of the land, in view of the want of settlement around it, in view of the want of value in the land itself,



it would be a mistake to place a price upon the land, and therefore we should put the land upon the free list independent of and without any reference to any policy whatever. The opening of each reservation should stand upon its own merits and be determined by the conditions and circumstances which surround it.

Mr. TILLMAN. I desire to ask the Senator from Minnesota a question just for information. I know nothing about the merits of this bill. I was merely paying attention largely to the general subject of Indian reservations as brought out by the Senator from Connecticut. I happened to be in Oklahomas in the past year, and I found some Indian reservations still existing there, the farm lands on all sides of them now occupied by white people, and given to those white people under the homestead act, worth from \$15 to \$40 an acre.

It seems to me it would be rather queer that we should buy those remaining reservations in the future at some arbitrary price much below the selling price of lands immediately adjoining, and then give them away, because how are we to give them away without making favorites of somebody? When the Kiowa Indian Reservation, in the western part of Oklahoma, was opened last year to settlement under the homestead act all will recall that they were. I think, 16,000 allotments, and about 100,000 applicants for the 16,000, and the only way to determine as to who should have them was a sort of wheel of fortune or a drawing. What right had anyone to authorize that those lands should be drawn for? In other words, what fairness was there in it to home seekers to thus dispose of the land?

This is rather a long question; it is something of an argument also; but if the Senator can give us any idea in regard to the special bill that is now pending and the value of the surrounding lands we can better determine—

at least I would be better satisfied to vote on the proposition—as to what we shall do.

Mr. CLAPP. The Senator asks two questions. One is as to the wisdom or authority of the method employed in opening the reservation as it was opened with a system of drawing lots. That is a matter I know very little about. It occurred before I was on earth, figuratively speaking.

The other question is along the line of what I was urging, that each instance should be determined by its own surroundings. If there is a reservation here and the land around the reservation is valuable, and the land in the reservation itself is valuable, then it is a mistake to make that land free. On the other hand, if there is a reservation and the land around it is not valuable and the land in the reservation itself is not valuable there is no reason why the settlement of that reservation and that section of the State should be retarded by placing a price on the land simply because some other reservation is surrounded by valuable land and is itself valuable.

Mr. TILLMAN. Will the Senator allow me to ask him right there if he has ever known of any Indian reservation which was sought to be opened or purchased and the title of the Indians vested in the Government, so that it could either sell or homestead it, that was not valuable? In other words, do we not allow the Indians to live on the lands that are not valuable without any disturbance, and is it not those alone which are sought for homes or for minerals that we are trying to buy from the Indians?

Mr. CLAPP. Not necessarily. Here is this reservation in South Dakota. Of course the Senators from South Dakota can speak more specifically of the character of the reservation and its surroundings than I can; but because we have to pay the Indians a certain amount for that reservation, as a matter of progressive Indian policy, for the purpose of separating the Indians and extinguish-



ing the reservation or for the purpose of meeting the advancing demands of civilization for the use of the lands, it does not follow that the land is primarily and inherently worth so much an acre. Another reservation may be valuable, as I stated in my earlier remarks, where we very gladly accord in the bill a provision that the land should be sold at the very price that the Government paid for it, because the surrounding land is settled and the land within the reservation is valuable. Now, because the Government feels that it is necessary under existing treaties to treat with this tribe and pay them something, that does not in itself involve a proposition that the land is primarily valuable by any means.

Mr. TILLMAN. Will the Senator tell us where this special Indian reservation lies?

Mr. CLAPP. The one under consideration?

Mr. TILLMAN. Yes, sir.

Mr. CLAPP. It is in South Dakota.

Mr. TILLMAN. Is it east or west of the ninety-ninth meridian?

Mr. CLAPP. The Senator from South Dakota [Mr. GAMBLE] can tell the Senator.

Mr. GAMBLE. It is west, I will say to the Senator.

Mr. TILLMAN. How far west?

Mr. GAMBLE. It is in the southern part of the State, west of the Missouri River. The reservation proposed to be opened is bounded on the west by the existing Rosebud Indian Reservation and also on the north. On the east it is partially settled. The balance of it is bounded on the east by the Missouri River.

Mr. TILLMAN. Is it not splendid grazing land?

Mr. GAMBLE. It is fair land. I think the price agreed to be paid by the Government of \$2.50 per acre is a fair consideration for the land.

Mr. PLATT of Connecticut. Will the Senator allow me to give him a little information about this land?

Mr. TILLMAN. Certainly, I will be glad to have information from any source.

Mr. PLATT of Connecticut. In the departmental letter signed by the Commissioner of Indian Affairs the following appears:

Respecting the terms of the cession, Inspector McLaughlin states in his report that he was greatly handicapped in the beginning by the fact that most of the Indians who favored a cession at all held the lands at an enormous price—from \$7 to \$15 per acre; that only a very few expressed their willingness to accept as low as \$5 per acre, and this in cash and all in one payment; that upon his arrival all the white men connected with the agency, as well as those of the surrounding country with whom he talked, held the lands in question as worth \$5 per acre; that it appeared that adjacent lands in Gregory County and in Hoyt County, Nebr., were selling at from \$5 to \$10 per acre; that a syndicate of cattlemen in Sioux City, Iowa, expressed its willingness to pay \$5 per acre for the entire tract, and that these current rumors and fictitious values placed upon the lands which were circulated among the Indians exercised them very much and had to be overcome by reasoning, which required time and a great amount of patience.

Mr. CLAPP. What I was arguing against was more the idea of a cut-and-dried fixed policy without any flexibility. What I was trying to urge was that each one of these treaties should stand upon its own merits. From what I know of that country I believe that the demands are such as to warrant throwing this land open for free homes, but as to the details, the value of the reservation and its

surroundings, of course the Senators from South Dakota are better able to speak than I am.

Mr. DUBOIS. I should like to suggest to the Senator from Minnesota, who is a member of the committee as well as myself, that after a number of years of trial we finally released all of the settlers from paying what they had agreed to pay. They entered into a definite contract with the Government to pay a specified amount for land, and notwithstanding that fact Congress released them from the payment of the money and the agreement they had entered into. While I am very much in favor of this bill because it has the homestead act in it, I do not think we ought to have a flexible arrangement. Congress ought to determine on something definite.

Mr. CLAPP. Mr. President, how are we going to determine, where the conditions are so various as they are? In the very case that was passed here last week there is absolutely no comparison in value between that land and the land involved in this case. I know that from what little I know of the situation, although I do not profess to know of it as the Senator from South Dakota.

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, which will be stated.

---

[35 Cong. Rec. 4855-4862 (1902)]

#### AGREEMENT WITH INDIANS OF ROSEBUD RESERVATION.

Mr. COCKRELL. There is a little bill—

The PRESIDENT pro tempore. The Senator will wait one moment. Under the unanimous consent given yesterday, it is the duty of the Chair to lay before the Senate the South Dakota reservation bill.

Mr. COCKRELL. I will wait until that is concluded.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation to carry the same into effect.

The PRESIDENT pro tempore. The amendment offered by the Senator from Connecticut [Mr. PLATT] is the pending amendment.

Mr. COCKRELL. Let it be read again.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In section 3, page 6, line 18, after the word "acre," strike out down to and including the word "that," in line 25, and insert the word "and;" so that the additional proviso, if amended, would read:

*And provided further,* That the price of said lands shall be \$2.50 per acre, and homestead settlers, who commute their entries under section 2301, Revised Statutes, shall pay for the land entered the price fixed herein.

Mr. GAMBLE. Mr. President, this bill was under consideration some days since, and perhaps it might be proper at this time to restate to some extent the conditions of the agreement which it is proposed to ratify by the pending bill.

The amount of land within the area proposed to be ceded under the agreement is 521,000 acres. There should be excluded from that amount 105,000 acres already held by Indian allottees within the limits of the proposed cession. In addition to that, the reservation for school purposes, as provided by the enabling act, and covered by the amendment already adopted, amounts to 29,000 acres, leaving to be opened to actual settlers 387,000 acres.

This reservation, as was stated in the discussion yesterday, is located in the southern part of South Dakota about midway upon the southern border. It is bounded on the west and partially on the north by the permanent reservation already existing of the Rosebud, and on the east by the Missouri River and a limited settlement upon the southeastern border.

I do not propose, Mr. President, to enter into any extended discussion of this measure, but I do feel I ought to refer to some of the statements made by the distinguished Senator from Nevada [Mr. STEWART], the chairman of the Committee on Indian Affairs, in regard to the policy proposed to be inaugurated by the Government in dealing with Indians for the cession of their reservations. I believe that each tribe and each reservation should be considered separately and our rule of action governed by the existing conditions surrounding each particular reservation. We should have regard for the law by which the reservation was created and our obligations based upon the treaties in force with the particular tribe.

In 1868 a treaty was entered into between the United States and the Great Sioux Indians occupying this region, and they were circumscribed and limited under the provisions of that treaty so as to reduce them in their possessions and occupation to practically that part of South Dakota lying west of the Missouri River. It was provided in that treaty that this reservation so defined should be and was set apart for the absolute and undisturbed use and occupation of the Indians named therein.

Following that, in 1889, another treaty was entered into between the Government and the Great Sioux Nation, wherein it was proposed to segregate the reservation and divide the Indians of that reservation into

different bands or tribes as they had therefore been known and incorporated. It was not in the form of the usual treaty, but it was a solemn act of Congress. The entire nation was subdivided into bands or tribes, and they were then placed upon separate reservations and the limits of these separation reservations described.

Under that act they were confirmed in all the title which they had under the treaty of 1868, and were guaranteed and assured that they should retain the permanent use and sole occupation of their respective reservations thus defined. In addition to that, the Indians relinquished and ceded to the Government upward of eight and one-half million acres, which on February 10, 1890, were thrown open to settlement under the conditions stipulated in the treaty.

Following that and in line with the policy already inaugurated the act itself provided that at any time when, in the judgment of the President, it was thought to be to the best interests of the Indians that a part of their surplus lands should be ceded to the Government the Secretary of the Interior might negotiate with the Indians for the cession, and upon terms and a price mutually agreed upon between the Indians and the Government. No agreement, however, which might be entered into between the Indians and the Department should have any force until ratified by Congress.

Mr. President, the rule pursued in this case is in line with the law of Congress, and the law to which I refer did not become operative until it was ratified by solemn act of the great Sioux Nation. It not only has the force of a law, but of a treaty as well, and we should have the highest consideration for each and all of its provisions. Simply because we may have the power to do so, we certainly can not justify a breach of any of its manifest conditions or provisions.



I therefore submit, Mr. President, that the discussion entered into in regard to the general policy of the Government in treating with Indians upon the Western reservations generally has no force, nor is it entitled to consideration, as applied to this particular reservation. In this case we must comply not only with the law enacted by Congress, but with the treaty itself. We should take up this agreement for consideration dissociated from the general question and treat it as it comes here in conformity with the act of Congress governing the subject and with the provisions of the treaty by which the parties thereto are honorably bound.

I do not feel, therefore, it is necessary to enter into a general discussion of the future policy of the Government toward Indians upon the Western reservations. Nor do I feel it is pertinent in the consideration of the pending measure. Nor do I feel that any action now taken will bind Congress in its interpretation of other laws or other treaties which may be entirely dissimilar from the present. This must be governed and controlled by the existing treaty and the law itself.

Another subject to which I should refer was suggested by the distinguished Senator from Connecticut [Mr. PLATT], for whom I have the highest respect, not only for his ability and high character, but for his eminence as a lawyer. The amendment already agreed to in regard to the school lands was suggested when the bill was pending before the Committee on Indian Affairs.

The bill had not that provision in it as prepared by the Department. My own judgment was, and now is, that such amendment was unnecessary, because under the enabling act admitting South Dakota as a State it was clearly provided that sections 16 and 36 in each township were granted to the State for school purposes. This provision, however, did not apply to the then permanent

reservations within the State. As soon, however, as those reservations were opened, as in this case and became a part of the public domain, then an additional provision of the enabling act became operative, and it certainly, in my judgment, granted to the State sections 16 and 36 without further legislation upon the subject.

The argument, therefore, made by the Senator from Connecticut, that the State of South Dakota would, on the ratification of this treaty, derive a special benefit, is untenable. It relates back to the law of 1889, and we would be entitled to it under the provisions of that act, rather than by the bill now under consideration. All States recently admitted were granted lands for the benefit of the common schools. Simply because 29,000 acres may be reserved under this bill for school purposes, aggregating in value substantially \$75,000, is no argument that we are specially interested in the provisions of this bill, because it inures to the State and was conveyed by virtue of the act of 1889. Our right thereto was long since determined by existing legislation.

Mr. President, in the discussion of this measure I do not think that the mere financial consideration should be solely considered. Other considerations, independent of the price fixed, should receive attention as well. Great benefits accrue, not only locally, but to the nation at large in the development of natural resources and adding to our material wealth. If in the opening of the Western domain to settlement by purchase of the Indian title we are to compute it by dollars and cents alone, the Government has been a great loser.

I do not have a recent statement from the Department, but I observe from a report made in 1880 that counting up the cost of lands by purchase, and in extinguishing the Indian title, their maintenance, and the maintenance of the Land Department, the Government as an investor in

land had expended at that time over and above its receipts upward of \$121,000,000.

Mr. President, other high considerations should have weight, and we should not be entirely and solely controlled by the money consideration necessary to extinguish the Indian title. I submit that the surplus lands in these reservations not necessary for the use of the Indians in the Western States should and ought to be opened to settlement and the advance of civilization and material development and to provide homes for an industrious population. There is no logical distinction between a reservation now existing and one that heretofore existed.

The Government since its foundation has recognized the title of the Indians and has always treated with them for its relinquishment. It should be assumed a fair price was always paid them for that relinquishment. If it be proposed to pay the Indians \$2.50 per acre for these lands, it is only a question of degree and not a question as to the reversal of a policy. All the lands in the western part of country, and I might say practically in the entire country, have been purchased from the Indians at varying prices.

The homestead law enacted in 1862 certainly brought wonderful results, not only to the Western people but to the entire country. That law is in existence to-day, and I do not believe its policy should be reversed. It was sought to be reversed, as applied to Indian reservations, within the past ten or twelve years by compelling the settlers upon these lands to pay the amount the Government was required to pay the Indians for the extinguishment of their title.

I believe, Mr. President, these provisions were unfair and unjust and worked a great hardship upon this class of settlers. The measure passed two years ago, known as the

"free homes bill," it seemed to me, repudiated that policy, and we went back again to the general homestead law and policy of 1862. I do not believe it is wise at this time to reverse the policy established by the passage of the free homes law of 1900. That law was fully considered, and I believe it expressed the judgment of the country and of all parties.

I do not understand that there has been any proposition to change or reverse that policy in any bill introduced during the present Congress. I call to mind the bill for the opening of the Crow Reservation in Montana to free homes, involving, I think, about 1,000,000 acres, the bill for the opening of the Lower Brule Reservation of between fifty and sixty thousand acres to free homes, the bill introduced by the senior Senator from North Dakota for the opening of the Devils Lake Reservation.

This was prepared by the Interior Department, was submitted with its recommendation, and provided for the opening of the lands to free homes. It was so recommended by the Committee on Indian Affairs. I call to mind also the bill introduced by the junior Senator from Minnesota, opening the Red Lake Reservation in that State. The bill was prepared by the Department and as introduced provided for opening the reservation to free homes. It was modified as to this provision by the Committee having it in charge. The Department itself recognized that it was the policy established by the Government, and followed that policy in the preparation of these measures for submission to Congress.

It was thought wise, Mr. President, that the amendment proposed by the Senator from Connecticut should be acceded to as affecting the lands in North Dakota. These lands are valuable, and settlers are eager to take them at the prices proposed. I quite agree with the suggestion made by the Senator from Minnesota, that



these reservations should stand individually upon their merits and be judged by the conditions surrounding each. The reservations in Minnesota and North Dakota to which I have referred are lands of high quality and are surrounded by well-settled and richly developed communities.

The conditions surrounding this reservation are entirely dissimilar. We have only to refer to the opening of the great Sioux Reservation in 1890. The lands are adjacent to this reservation on the north. The lands, however, proposed to be opened by this bill are much more desirable. By the act opening that reservation it was provided that all lands opened to settlement, the settlers filing thereon within the first two years should pay \$1.25 per acre; during the succeeding two years, 75 cents per acre, and thereafter 50 cents per acre. Within the first ten years of the opening of that reservation only 5 per cent of the lands were taken by settlers under the conditions of that act. This in itself plainly indicates the quality of the lands for agricultural purposes. For grazing purposes it is valuable and very desirable.

Some of these lands have been taken up by settlers during the past two years in consequence of the pressure of population and the increased value of the lands to the east of the reservation. Conditions in many other respects have been much more favorable to settlement. Immediately upon the southeast of this reservation is what was formerly the Fort Randall Military Reservation. This was opened to settlement by an act of Congress in 1895. There was a provision in that act permitting the State of South Dakota to select her school and indemnity lands within the limits of that reservation before filings from settlers should be received. It was carefully examined by the officers of the State, and they refused to make the selections of their lands within that reservation because they considered the lands undesirable.

Mr. President, here is a reservation removed from railroad communication and remote from substantial settlement, without opportunity for rapid development unless conditions are changed. It takes a long time for settlement to advance and develop these new sections. This reservation ought not to be classed with other reservations or to be controlled by any general policy, as has been urged, and ought not be judged by the conditions existing and surrounding other reservations in North Dakota or in Minnesota, where conditions are entirely dissimilar.

Within the limits of this reservation, as I have already stated, 105,000 acres of land have been reserved for 452 Indian allottee. In other words, 20 percent of the lands within the limits of the proposed cession has been retained by the Indians. The lands thus selected are the best and most desirable. They have made their selections and they hold them under patents from the Government and from which they can not be dispossessed.

I have here a map of the reservation, furnished me by the Commissioner of Indian Affairs, which indicates upon its face the allotments held by the Indians. It will be observed from this that they have secured practically all the lands along the streams, which in every sense are the most desirable.

I believe some substantial consideration ought to be shown by Congress to the settlers who take up these lands and assume the responsibilities of building up such a community. Unusual responsibilities which are clearly apparent must necessarily be assumed.

Mr. STEWART. Mr. President—

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Nevada?

Mr. GAMBLE. Yes, sir.



Mr. STEWART. After they have taken the lands along the streams—the best lands—are we not paying a pretty high price for the remainder? Is not \$2 an acre rather an extravagant price to be paid for such lands, not to be settled for some time to come?

Mr. GAMBLE. I will say, in reply to the Senator, that I have been over a part of this reservation—not over it entirely—and also on its eastern border, and from my information as well as knowledge I would say that the price named is fair, equitable, and just, both to the Indians and to the Government.

Mr. STEWART. How about the country farther west, the higher lands?

Mr. GAMBLE. As to lands farther west, I should say that \$2.50 an acre would be too high, for the reason that the farther west you go the rainfall grows more limited. On the east of the Missouri River, and across the river it is settled. There is a railroad projected from the south, so that the people within this reservation will soon, I hope, have outside communication.

I was speaking of the hardships imposed upon the settlers who went in and opened up new communities.

Mr. STEWART. Are we not paying too much for those lands?

Mr. GAMBLE. No, sir; I think not. I say this is a fair and just price. They asked, in the first instance, an increased price for the lands—\$5, \$10, and \$15 an acre. I, however, think this is a fair and just agreement as between the Indians and the Government itself.

As I was saying before being interrupted by the Senator from Nevada, I believe consideration should be shown to the settlers who go upon these lands and develop homes there under new and trying conditions. The Indians are the wards of the Government, and on this particular reservation they have already secured 20 percent of the lands.

Under an act of Congress those lands are not subject to taxation and are inalienable for a period of twenty-five years. The personal property of Indians, of course, will be inconsiderable. The settlers will be obliged to meet unusual conditions and bear heavy and onerous burdens. It is no light or easy task to open and develop a new community. The settler, as a rule, is possessed of limited resources. In this case he will be practically unaided by the Indian. He will be obliged to bear his own burdens as well as that of the Indian. I am informed there is only one schoolhouse within the entire limits of the reservation.

The settlers will be compelled not only to develop this new community, but they will be obliged to build schoolhouses and maintain schools without any assistance from the Indians. The settlers, in addition, will be compelled to build highways and bridges and maintain them. They will be compelled also to maintain courts, and provide and supply all the machinery of local government. The settlers will be doing service for the Government in helping to civilize, cultivate, and develop the Indian, and to make of him a good citizen. I submit, Mr. President, some considerations should be shown them by the Federal Government when they assume these burdensome duties in behalf of the Government.

It was suggested that this involves the Government in a large outlay. I do not pretend to know what may be the final outlay that will have to be made by the Government in the extinguishment of the Indian title for the surplus lands in the existing reservations. It was said by the distinguished Senator from Connecticut that in his judgment—and I think that he advanced it simply as an opinion—it would require \$50,000,000. In the same connection he stated there were yet remaining 8,000,000 acres of Indian reservations within the limits of the State

of South Dakota. If they were to be opened to settlement at the rate of \$2.50 per acre, it would involve the expenditure by the Government of practically \$20,000,000.

Mr. President, I think if the first statement is as inaccurate as the second the Senator must be very wide of the mark. Within the limits of the reservations in South Dakota there have been reserved for the Indians, in addition to their allotments, a large amount for general purposes and the use of the tribes. So that, while there may be additional lands opened in South Dakota, I do not believe they will amount to more than 1,000,000 or perhaps 2,000,000 acres.

Mr. President, we respectfully submit that the bill now under consideration should receive the approval of Congress. We insist there ought not to be a discrimination made against settlers upon Indian reservations in comparison with the settlers upon other lands.

Why should not the settlers upon these Indian reservations be entitled to the same consideration as those who settled in Iowa, in Nebraska, in Minnesota, in North and South Dakota, and elsewhere? Those lands were purchased from the Indians; the Indian title was extinguished in like manner and the lands were opened under the homestead and preemption laws, and why should not these settlers receive the same consideration, and why are they not entitled to even better treatment than the settlers to whom I have referred?

These Indians have been crowded into South Dakota from other States, and we have within the limits of our State between twenty and twenty-five thousand. We are asking that they be treated with equity, with fairness, and with justice; but there is no denying the fact that Indians there located materially impede the progress and development of our State. We desire, Mr. President, that

no injustice shall be done to the settlers who go in and assume and carry all these burdens. We ask that the settler, alike with the Indian, be treated with fairness and with justice.

I submit, Mr. President, that the bill should be passed as it has been reported from the committee; that the amendment proposed by the Senator from Connecticut ought not to receive favorable consideration, and that we ought not to reverse the policy of the Government in the application of the homestead law, and that its principles should be maintained and preserved with uniformity in our statutes.

Mr. TILLMAN obtained the floor.

Mr. PLATT of Connecticut. Will the Senator from South Carolina allow me a word before he begins?

Mr. TILLMAN. Certainly.

Mr. PLATT of Connecticut. I do not think any policy that we would give free homes by the act, which was called the free-homes act, was established, because that act was expressly limited to lands which had been already opened to settlement and acquired prior to passage of the act.

Mr. COCKRELL. What is the date of that act?

Mr. PLATT of Connecticut. May 17, 1900, page 179, Statutes at Large, volume 31. The act was expressly limited to what had been done before the time of its passage. That, as I understood, was in order that it should not be taken as the settled policy of the Government to do it hereafter.

Mr. TILLMAN. Mr. President, there is only one phase of this subject I wish to discuss, and that very briefly.

As a general proposition, I believe in opening our public domain to settlers upon as reasonable and as liberal terms as possible. Therefore, if I remember aright, I voted in favor of the passage of the bill which has just



been quoted by the Senator from Connecticut [Mr. PLATT]. In fact, I do not think there was any opposition to it.

But in that very matter of opening Oklahoma, I found last year in visiting that section the condition of affairs which I mentioned yesterday. When those Indian reservations were thrown open to settlers there was such a flood of applications for homesteads—the number so far exceeded the amount of land that was available—that the Department, in order to have any show of fairness, established a lottery, by which the several claimants, amounting to over 100,000, if I recollect right, for about 16,000 homesteads, were to put their names into a wheel and draw for the privilege of location.

Were those 100,000 who made application for homesteads bona fide homeseekers? Were they men who were endeavoring to get a foothold on the soil, make their settlement, and go to work to create a home and become citizens? No. There were speculators there from all portions of this country, men who were well to do, who had no purpose whatever of going to that country to locate permanently, but who went in, made their applications, filed their papers, and paid the little fee, whatever it was, to get the right to have their names go into this wheel and draw for the right to locate. I know men in my section of the country—although there were very few in that section who made any effort to get to Oklahoma—but I do know of instances in which men who were well to do and better off than I am, finding that there was a chance to get some valuable land for nothing, went out there, put in their applications, and drew. The one individual I have in mind just now did not draw a prize, but he might have drawn it.

But the question which presents itself to me as a practical man here is what right we have as legislators to

throw open these lands that we are going to buy at five, or seven, or whatever number of dollars it may be an acre, out of the public Treasury—what right have we to repeat the Oklahoma scheme? What right have we to tax the general taxpayers of the country, the ordinary people everywhere, to buy these lands and then give them to the gamblers who will go there and try to get land? I do not believe in such a policy, and therefore I shall vote for the amendment to make every man there pay whatever the Government pays for these lands.

Mr. STEWART. Mr. President, this discussion brings up the original question, the great question that is before Congress in dealing with these reservations, whether the United States is bound to give the Indians what they ask for their executive-order reservations. The Indians have been treated as wards of the nation. They have been fed; most of them have been cared for; they have been put on these reservations, and the reservations have been made valuable, not by their labor, but by the labor of the whites. The Government in setting apart a piece of land for them and reducing it to cultivation has acted as a guardian would by his ward.

The town-site speculators give away lots for the purpose of enhancing the value of the remainder of their lands, and the Government should do substantially the same thing. When it opens up a part of a reservation and settlers go in there, the remainder of the land is worth ten times as much as all of it was before. The very land referred to in the bill here was not worth 4 cents an acre originally when we were dealing with the Indians. It was worth but a mere nominal sum, and now we are to pay two dollars and a half an acre for it. Who has made it more valuable? The Government has made it so by opening the reservations and bringing the whites nearer to the Indians. The Indians have all the benefit; they still



have a possessory title to the lands given to them for temporary purposes, and they are taken care of as wards of the Government.

Originally, under the decision of Chief Justice Marshall, they did not have any title which the Government was bound to respect, except as a matter of humanity and charity to take care of them. We assumed to act as their guardian. I am in favor of taking care of them, and, where necessary, feeding them, but not feeding them too much, so as to make paupers of them, thereby destroying them. If that policy is to be pursued, if we are to be responsible for taking care of the Indians, and we set apart a piece of land and say to them, "You may stay within these large boundaries, containing a million or two million acres of land, and the Government will take the balance and open it to settlement," we thereby raise the value of all of the land; and if they are to be put upon it, so as to block settlement, the Government meanwhile supporting the Indians, it is going to take many million dollars.

The question is, Has the Government any power rightfully to open these lands to settlement? I do not mean legal power, because the Government undoubtedly has the right to deal with any of these reservations in any way it pleases. The courts have decided that question. We have opened reservations by acts of Congress, and we can give good title to the land within them. The power to do that has never been questioned; but I am speaking of the moral obligation to do it, and that is all the obligation we have in this matter. It is a moral obligation to recognize their possessory right. It is best for the Indians to take the best lands, but to take them in small quantities, if you want to civilize them. We can not civilize them by allowing them to roam over millions of acres of land. If we are going to civilize them—that is our mission—we can only do so by putting them on small tracts of land.

There is nothing so damaging to the civilization of the Indians as a large reservation, with the right to roam over it without working. Whenever you open a reservation you are going to bring in settlers and double and treble and quadruple the value of the remaining land. Are you going to do that and then let the Indians set the price? There ought to be some limitation, some discretion on the part of the Government. Perhaps the courts will decide that in the settlement of the country the procuring of lands for settlers is a public use. If the courts so decide, then the way to open these reservations will be for the Government to appoint a commission and adopt some method, so as to secure equity between the Government and the Indians for the benefit of the Indians, as well as to secure the Government against its Treasury being raided.

We are going to send our agents to treat with the Indians. We have entered into treaties with them and opened reservations on which we have expended a great deal of money. After we have done all that and donated the Government money for that purpose, shall we give the land to the bona fide settlers or to the boomers that go there to grab the land? If we follow out that scheme, it will take a great many millions.

Mr. TILLMAN. I will state, in addition, a fact which has been brought to my attention. I was told of cases in Oklahoma in which men who already had homes in other parts of the Territory previously opened rushed into the new reservation that was opened and proceeded to preempt, showing that the claim that you want to get bona fide settlers to go to that country does not hold good, and that speculators will be the main beneficiaries of this policy. It is a question of making somebody pay some money, and then you will get the bona fide settlers; otherwise you will have boomers and speculators and other such people who do not need this benefaction on the part of the United States.

Mr. STEWART. If the United States can not be protected from the payment of fancy prices put on these lands by the Indians, on the plea that the land adjoining is improved—I say if there is no way to relieve the United States of that burden, and we must pay those fancy prices, then we can hardly excuse ourselves for giving the land away.

Mr. QUARLES. Mr. President, I have a profound respect for the distinguished Senator from South Dakota [Mr. GAMBLE] and a desire to vote in accordance with his wishes, for I have no doubt he honestly believes that the interests of his State may be promoted by this measure, and I would cheerfully do so, sir, if the measure stood alone—if it did not affect and practically shape the future policy of Congress in regard to this matter of free homes. But we are standing at the opening of a new era in regard to this matter. As was well pointed out by the distinguished Senator from Connecticut [Mr. PLATT] on yesterday, it was all well enough while the Government had a great amount of surplus land and while the honest settler was struggling to obtain a home upon that land, that the former policy should obtain. I will not be outdone by anyone in the admiration I feel for the honest man who takes his wife and family and all the possessions he has in the world in a covered wagon and travels West to find a home and a shelter for his little flock. But, Mr. President, things have changed, and I am persuaded that this legislation is not intended, or, if intended, that it will not have the effect of reaching the honest settler who travels in a prairie schooner—as was done years ago—but that the effect of it will be to reach another class who are not deserving of the confidence of this body.

What have we done in this great Western country? By the opening of these large domains to public settlement

under the free-homes scheme we have really developed a new class of people out in that Western country. They are not settlers at all. As the Senator from South Carolina [Mr. TILLMAN] well says, they are speculators, and they have become a class that are exerting a distinct influence in that section of our country. Now, as soon as it is rumored that a reservation is going to be opened those men come and they cluster about that reservation; agitation is commenced, the Indians are stirred up, and that agitation becomes so rife that it is felt here in the halls of Congress. Free homes is a very attractive and enthusiastic proposition here. Western Senators and Representatives participate in the feeling, and practically we have been stampeded into measures of this kind several times. That free-homes business, after all, rests on the proposition of obtaining something for nothing, and there is no proposition in this world that is so attractive to a large class of people as that. If they can get something for nothing, they will spend more money to do it than the object which they seek is worth.

Mr. HANSBROUGH. In these cases they generally do spend more money than it is worth.

Mr. QUARLES. Very likely so.

Mr. HANSBROUGH. They spend more money than if they bought the land in the first place.

Mr. QUARLES. Very likely; and I am prepared to say to the Senator that, in my humble judgment, the settler who actually makes his home, who brings his family, and helps to build up a State and augment its prosperity, is not the man who will receive this exemption. He comes later. Your professional speculators and settlers are there. They are they by the thousands. They come from all parts of the country; they gather like birds of prey and are ready to make a rush or to take a chance at the wheel or anything else to get something for nothing. Then what



happens? After they have made the rush or have taken their chance in the wheel and have got a claim, they simply get a foothold there long enough to sell out to an actual settler afterwards, and he pays them five or ten dollars an acre as the case may be, and then they go away.

These men are not settlers, Mr. President. You could not tame one of them any more than you could domesticate a cyclone. They go from one frontier to another, and as soon as immigration advances they retire. They are children of the frontier, and we have educated them up until they have now become a class out there who are there ready to take the benefits of these acts, which are withheld really from the actual settler, who comes afterwards and pays his money to these fellows, takes his position there, and then, of course, the country is settled in that way.

Now, why should we not do business here on behalf of the Government on business principles? Why should the benevolence of this great Government blossom out of lotteries, or why should it degenerate into such a rush as they had in Oklahoma? I think the time has come to stop that thing, and have the Government do business on business principles. Let us deal with the settlers. Let them have this land at what the Government has paid for it \$2.50 an acre, and close it up there.

Mr. DUBOIS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Idaho?

Mr. QUARLES. Certainly.

Mr. DUBOIS. If it will not interrupt the Senator, I should like to call his attention to the fact that the bill provides for selling the land at \$2.50 an acre, or for homesteaders to go on it. Now, how is the homesteader going to be a speculator? He has to live on the land five

years among the Indians. Which proposition would sooner invite the speculator, \$2.50 an acre, or the homestead proposition in the present bill?

Mr. QUARLES. Theoretically, of course, they are homesteaders. They come in possession and stay until they can dispose of their claims, if they stay there five years under the land laws they are not obliged to plow a furrow. I ask my distinguished friend what good is to come to the State of South Dakota by having these professional speculators go in there and hold these lands for this period of time?

Mr. GAMBLE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from South Dakota?

Mr. QUARLES. Certainly.

Mr. DUBOIS. I will answer the question if the Senator from Wisconsin will allow me.

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Idaho?

Mr. QUARLES. I yield to both Senators.

Mr. DUBOIS. No; the Senator asked me a direct question, which I will answer. No good could come to South Dakota by having speculators go there and take this land, and speculators will not go there if they have to become homesteaders; but they will go there if you sell them the land for \$2.50 an acre. That is the experience we have had all through the West among those who are familiar with the opening of Indian reservations. I have had it in my own State.

Mr. GAMBLE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from South Dakota?

Mr. QUARLES. With pleasure.

Mr. GAMBLE. It is not true that the settler upon these lands, or upon any Government lands under the home-



stead law, that being the only law now in force, is obliged to live upon the land, to maintain a permanent residence thereon to cultivate the land, and if he does not he thereby forfeits his right? Is not that the existing law?

Mr. STEWART. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Nevada?

Mr. QUARLES. Directly, after I have the pleasure of answering the distinguished Senator from South Dakota. I wish to answer him. I would not want to do him the discourtesy of failing to answer his question even to yield to my distinguished friend the Senator from Nevada.

That is undoubtedly true theoretically, as stated by my friend from South Dakota. Theoretically, the settler has to go in and he has to put up a habitable place for a man to live. That costs very few dollars. He comes in there and puts that up and he has a foothold. He has not put a plow into the furrow at all, and in a year's time, for instance, an actual settler comes along and he makes an arrangement with him, and out he goes. My proposition is that the State of South Dakota is not benefited by the intervention of these people, who come in not with the intention of settling, but with the intention of speculating on the land; that it is a positive detriment to the State; that it would be better for the Government to deal in the first instance directly with the permanent settler.

Mr. STEWART. Mr. President, the Senator from Wisconsin has answered the question substantially as I should have done. I merely wish to emphasize it. It is very easy for a man, if he gets the land, which there is a prospect will be worth more than \$2.50 an acre, to hold on, and he will find somebody who wants it, and he commutes, and gets the deed. That is the practice.

Mr. QUARLES. Certainly.

Mr. STEWART. It may not be true, but my informa-

tion is that it has been done in almost the majority of cases where reservations have been opened. Wherever the land is worth more than \$2.50 an acre, all he has to do is to hold on and a man gives him money to commute, and he commutes and he gets the deed.

Mr. QUARLES' When the President has issued his order for the opening of this reservation, I guarantee you can go out on the confines of the reservation and find the same fellows located there who were in Oklahoma in the great race they had there or who were at the opening of the Kiowa and Comanche strip when it was done by the instrumentality of a wheel of fortune.

Mr. GAMBLE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from South Dakota?

Mr. QUARLES. Certainly.

Mr. GAMBLE. It is not true that where a settler has once filed upon a piece of land he is precluded from making a second filing, and in order to avail himself of a second filing he must make oath that he has not received the benefits of the homestead or other law, or any benefits? And, enlarging perhaps upon the interrogatory, how can it be that there is so large a number of speculators as the distinguished Senator states? I live out in that region, and have lived there for twenty-five years, and I have not observed the conditions to which the distinguished Senator refers.

Mr. QUARLES. My friend might live in the quiet seclusion of South Dakota for many years and never see the faces of the class of speculators to whom I refer any more than we would see them in Wisconsin; but once let the President of the United States issue his proclamation that this great reservation in South Dakota is going to be opened, and I will guarantee that my distinguished friend will see those people to his heart's content, for they will certainly be there.

Mr. STEWART. Mr. President—

Mr. QUARLES. I do not feel at all proud at the idea that the benefactions of this great Government are to be dispensed with a wheel of fortune. I never have, and I insist that business principles are far better. Their influence is more wholesome on the public. Let us sell these lands to the actual settlers in the first instance for exactly what they cost us, and then we will be following true principles, business principles, and it will be better for the Government and better for the State of South Dakota.

Mr. STEWART. The practice of using dummies to evade the land laws has been in vogue under all systems. The preemption laws were frequently evaded in that way. Good land, worth much more than the Government price, is very tempting to speculators. It is alleged that dummies are sometimes used under the homestead law where the right to commute exists, and under that law any person who will take the trouble may claim a homestead, hold it until some bona fide settler wants it, obtain the money from him, and commute it and convey it to the settler at a profit to the speculator.

Mr. QUARLES. Just one word.

Mr. JONES of Arkansas. Will the Senator from Wisconsin allow me to ask him a question?

Mr. QUARLES. Certainly.

Mr. JONES of Arkansas. Do I understand the drift of the Senator's argument to be in opposition to the homestead laws altogether?

Mr. QUARLES. Oh, not at all.

Mr. JONES of Arkansas. In what, then, does this differ from the ordinary homestead laws? Under the homestead laws on any land belonging to the Government of the United States a citizen who has not had the benefit of the homestead law may locate a homestead. Now, as I

understand, under this bill he can do exactly the same thing. What difference does it make to the Government whether the land is derived by purchase from France or from an Indian tribe? If the land is a part of the public domain, and the law stands as it has been for years, why not allow any citizen who has not had the benefit of the homestead law to locate a homestead on any land, no matter whence it comes? I do not understand the Senator's idea—why this land should be differentiated from the public domain in other places.

In the matter of commutation there is this difference: A person can commute ordinarily under the law at a dollar and a quarter. It is put at two dollars and a half in this bill. I think that is wise. My own idea would be to strike out the commutation feature so far as this reservation is concerned, and require the people to live for five years on the land and not allow them to commute, and to permit them to get their deeds at the expiration of the five years.

Mr. QUARLES. The suggestion of the Senator from Arkansas may have value. His suggestions usually have. I do not know but that the proposition to prevent commuting entirely is worthy of attention.

Not to take the time of the Senate unduly, I wish to say in conclusion that this is a matter of policy; whether we shall tax the people of this country from \$50,000,000 to \$75,000,000 in order that land may be given away. That is the proposition. I am not willing to subscribe to it. I think the policy is vicious. It is a paternal system of doing things which does not increase the industry of any section, and in my humble judgment the better way would be to let the people pay for the land what the Government has paid for it.

Mr. JONES of Arkansas. But, if the Senator will permit me to make a suggestion—of course, I do not want to



make a speech—the United States Government did pay \$15,000,000 for certain lands, most of which, or a very large part, have been given away for homesteads under the policy of the Government of undertaking to provide homesteads for all classes of citizens who have no homes. It seems to me it should make no difference whether the land is derived by purchase from France or from Indian tribes or however it may become a part of the public domain. If the homestead laws are wise and beneficent and proper, there is no reason why those homestead laws should not apply to all public domain, it makes no difference whence it comes.

Mr. PLATT of Connecticut. In reply to the suggestion of the Senator from Arkansas, I do not think he can show that this Government ever bought lands and thereby extinguished the Indian title with the particular intent of giving those lands away to anyone.

Mr. JONES of Arkansas rose.

Mr. PLATT of Connecticut. I will explain myself a little further. We did pay \$15,000,000 for the Louisiana purchase, as we have paid for all the land we have taken from other countries; we did pay trifling amounts of money to extinguish the Indian title over a large portion of the Louisiana purchase; but at that time we were not giving away land, and we neither paid France for it nor extinguished the Indian title in order to give away the land. The laws then provided that the land should be paid for, and so on up to the time of the homestead law, and since the homestead law we have never been buying lands for the particular purpose of giving them away. We made a new departure in our policy—

Mr. JONES of Arkansas. Will the Senator allow me to make a suggestion?

Mr. PLATT of Connecticut. Certainly.

Mr. JONES of Arkansas. We have extinguished the

Indian title for the purpose of making the land a part of the public domain.

Mr. PLATT of Connecticut. Yes, sir.

Mr. JONES of Arkansas. The general law provides how the public domain shall be disposed of, and when we have extinguished the Indian title and made the land a part of the public domain there is no reason that I can see, and the Senator does not point out any, why it should not be treated as are other lands.

Mr. PLATT of Connecticut. When we extinguished the Indian title we extinguished it in order to sell the land to the people, and that is what should be done now.

Mr. DUBOIS. Mr. President, I could not quite understand the contention of the Senator from Wisconsin [Mr. QUARLES], speaking to the bill under consideration. It clearly to my mind would invite speculators more surely if the land was to be sold for \$2.50 an acre than if the settler was to go there and take up the land under the homestead law. I fear that some Senators are confusing the very rich lands of Oklahoma with the lands in Indian reservations in the West. There is not going to be any very great rush, I imagine, for these lands in South Dakota. I know it is true of Indian reservations in my own State, and the lands there are quite rich. In Oklahoma it was an extraordinary occasion. Anyone who will go out there and live on a piece of land among the Indians and suffer the privations of the frontier for five years is entitled to have it for nothing; and if anyone will take up a homestead and undertake to do this, and at the end of five years can sell it at a profit, goodness knows he ought to be allowed to do it.

Now, in regard to the matter of policy, the Senator from Connecticut [Mr. PLATT] says the free-homes bill did not establish any settled policy; that it expressly provides that it shall apply to reservations which have



already been opened. That is true; but it sets a precedent which, in my judgment, we ought to accept as a settled policy. I do not see how anyone in this Chamber who voted for the free-homes bill can, with thorough consistency, refuse to extend the homestead act to reservations which are to be opened in the future.

I can see the confusion and the struggle going on in the minds of members of the Indian Committee, and I understand the dilemma in which the chairman is placed, and if he will agree to protect me from the Indian Rights Association, I will say what I think ought to be our settled policy.

It should be founded on the free home. Then we should send our agents, not to treat with the Indians, but to go out there and to do the very best thing for the Indians. They should make a proper appraisement of their land. Take an Indian reservation containing a million acres, which is the case in a number of instances, with not more than a thousand or fifteen hundred Indians on it. The Indians are not doing anything with the land at all. It is useless. Their treaties are expiring, so that they will not have annuities any longer. The treaties are expiring by which we feed them, and they are coming to starvation. Let these men appraise part of their lands and sell them for the benefit of the Indians.

I am opposed also to giving the Indians money directly. That is a new policy, a policy of recent years. It does more to demoralize the Indians than anything else. It does them no good. The proceeds of this land, when it is appraised and sold, should be put aside for the benefit of the Indians.

Mr. TILLMAN. Mr. President—

Mr. DUBOIS. Excuse me for just a moment. Then the land should be thrown open to homestead settlers. In some instances, of course, you will find reservations near

towns and cities or for some other reason where the lands will be very valuable. In that case the agents of the Government could fix the lowest price at which the lands should be sold, and in an extraordinary case of that sort you could reimburse the Government and give the balance of it to the Indians.

Now, generally that would be my policy, and I think we have about come to the time when we should cease to go through the farce of treating with the Indians. Every Western man and some Eastern men who are familiar with it, like the Senator from Connecticut [Mr. PLATT], know this to be true. I stated it yesterday, and I will state it again. When a commission is sent out to treat with Indians for a cession of their land there is a pressure from all sides to get any sort of an agreement, no matter what it is. The Indians are pretty cunning. They understand that and put the price up way beyond what the land is worth or ever will be worth, and they insist now in addition in these later days that the money shall be paid to them directly. I think it ought to be stopped.

Mr. TILLMAN. I was going to direct the Senator's attention to a condition of affairs which occurred in Oklahoma, to this effect. The city of Pawnee, which is about seven or eight years old already, has about seven or eight thousand people in it, and there is a very rich farming country behind it. But just across a big road running on one edge of that city is an Indian reservation, and the proposition will soon come from the pressure of whites to get onto that land and get a title of some kind to it that the United States must extinguish that Indian title, and either open the Pawnee Reservation to homesteads or provide some other method by which the white man may get his grip on it.

Undoubtedly this land, lying right across a street, you may say, on the edge of a city, is worth already \$3 or \$4

or \$5 an acre, \$300 anyway, and land a little ways back, in fact land all around for miles and miles, is worth from \$20 to \$50 an acre to farmers who can go in and make their crops.

Now, the Senator says the Indians ought not to have the money direct; that it is an injury to them; and all that kind of thing. You speak of having a commission appointed who shall sell the Indian lands for the benefit of the Indians, as I understood the Senator said.

Mr. DUBOIS. Yes. Of course, as I said, there are some exceptions. I was speaking more particularly with reference to the Western Indians and their reservations.

Mr. TILLMAN. There are Indian reservations and Indian reservations. The Oklahoma situation of course is different from almost any other, because of the exceeding fertility of those lands and their very valuable character and all that kind of thing.

Mr. JONES of Arkansas. Of what reservation does the Senator from South Carolina speak?

Mr. TILLMAN. I do not know its name. I suppose it is the Pawnee, because the town is called Pawnee. The Indian reservations are dotted about there yet. I saw one at Shawnee, where I went to the Indian school or the mission or whatever is there. They told me that the braves were out on some creek 3 or 4 miles off holding a corn dance, praying to the Great Spirit to come and drive away all the white men who were interfering with them.

The question I want to have settled is whether the taxpayers of South Carolina are to be made to put their hands into their pockets to provide money to buy land which is to be given to somebody. That is what I am after. The general theory of homesteads to be donated to bona fide settlers was very good in the past when this great domain was wilderness and people were rushing over from Europe to advance our flag of civilization

across the continent. But we have gotten to the point where we have taken up all of the land desirable for farms. We have reached the arid region where agriculture needs irrigation, and the Senator and his colleagues here proposed and we all, without any opposition, passed a bill a little while ago providing that the proceeds of the sales of public lands should be devoted to a fund for developing irrigation.

Yet you propose to give away the land in the Rosebud Reservation, which is so near the border of the rain belt that people are willing to risk the danger of going in there and trying to establish a farm, although they may lose one crop out of three, or two out of three, or one out of two. But the general proposition which faces me is what are we going to do with these millions of acres which are in reservations scattered from Wisconsin westward. Are we going to continue to buy the lands and then open them and give them away?

Mr. DUBOIS. Certainly.

Mr. TILLMAN. The Senator from Idaho says certainly, because he lives there. I will ask the Senator where he is going to get the money for his irrigation scheme if he is going to give all the lands away? What was the use of our passing the bill providing for the setting apart of every dollar received from the sale of public lands for irrigation purposes? Under the Senator's programme there would be no money coming in at all.

Mr. DUBOIS. Does the Senator from South Carolina pretend to stand there at his seat and say all the public lands in the West are embraced in Indian reservations?

Mr. TILLMAN. No; I am not that big a fool, although I am a pretty big fool at times.

Mr. DUBOIS. Then the proceeds will come from the sale of lands not in Indian reservations.

Mr. TILLMAN. Ah, yes; but all of those lands which



are fit for homes are pretty well taken now. There are millions of acres of arid lands out there, on which there are buffalo grass and sagebrush and other growth, that will furnish a bare living for a cow or a sheep on 4 or 5 acres; and they will be there in the sweet bye-and-bye. They will be there forever, without any chance for anybody to get a living on them except by fencing them in or having a few herds roaming about.

Mr. DUBOIS. I will say to the Senator from South Carolina that there is more agricultural land in the Snake River region, Idaho, outside of Indian reservations, than there is in South Carolina.

Mr. TILLMAN. You mean land that will produce a crop?

Mr. DUBOIS. Every year.

Mr. TILLMAN. Every year?

Mr. DUBOIS. Yes.

Mr. TILLMAN. What is the matter with it, then, that people will not go to it?

Mr. DUBOIS. They will go to it when the irrigation bill is in operation.

Mr. TILLMAN. Oh! You have to help God Almighty and furnish some water. You must have money to do it, and you have to put the water over the land before it becomes agricultural land. I consider land that will not make a crop without artificial help as not agricultural land. You can not pretend to claim that land which needs irrigation is arable. It is not arable, because while you may put the plow into it, the crop is the true test of arable land.

Mr. DUBOIS. I should like to ask the Senator from South Carolina if he considers land covered with timber agricultural land?

Mr. TILLMAN. When you clear it it is.

Mr. DUBOIS. Oh!

Mr. TILLMAN. It is forest first.

Mr. DUBOIS. Yes.

Mr. TILLMAN. But one is an artificial and the other is a natural condition. The mere effect of the labor necessary to clear away the forest is one operation in preparing the soil, but irrigation is an artificial condition, produced by the use of large capital, for the purpose of furnishing water, something that God or the climate or meteorological conditions furnish elsewhere.

But the point I wish to have settled is this: Here are these reservations, containing three or four or five—I do not know how many—million acres, but I see the maps we get from the Land Office dotted about with squares and circles and other shaped patches of yellow or red or something of that sort, indicating how many of these Indian reservations still remain.

Undoubtedly the Indians, when they were corralled or pushed into a location instead of roaming at will, selected the best lands—lands that suited their purposes best. They usually went where the timber was, and land will not grow good timber unless there is water. So we may say that all the Indian reservations remaining in the arid region are the best lands out there, and they are going to cost us money. The question is. Are we going to buy them, the United States furnishing the money from the taxpayers of the country throughout the United States, in order to give them away? I do not believe there is any justice in that proposition myself.

Mr. CLARK of Montana. Mr. President, there seems to be considerable misapprehension in the minds of some distinguished Senators in this Chamber with regard to the operations of the laws which are now on the statute books of this country allowing the acquisition of title to the public land. It has been said by several of the gentlemen who have spoken upon the question that all



sorts of fraud are perpetrated. This is no doubt to some extent true. I believe there is scarcely a law enacted by the Government or by the respective States in which there is not an attempt at fraud in the operations of the law. But we have upon the statute books today a law regulating homestead entries, and, as I understand it, any qualified American citizen can go upon the public land and locate 160 acres under the homestead law and by a residence of five years he can acquire title to it.

These lands that it is suggested we shall purchase from the Indians—for undoubtedly they belong to the Indians to-day, in most cases at least—are no exception to the general rule. As it has been said, when the proclamation of the President shall have been made throwing open the lands for public settlement men may rush in there in great numbers. I have no doubt that will be the case, because most of these Indian lands of which I have by personal observation acquired a knowledge are very valuable for grazing and for agricultural purposes. But the law relating to the acquisition of title by homestead or by any other method has most stringent provisions whereby fraud can not be practiced except through perjury and subornation of witnesses. Now, there is a remedy for this. There is a penalty for it, and I can not understand why in the endeavor to secure title to homestead interests under the provisions we are now discussing there should be any more latitude for the practice of fraud than exists to-day under the laws providing for homestead entries.

I know nothing about the operations of the lottery system to which the Senator from South Carolina has alluded, but I do believe that any man or woman who may be privileged to make a selection of that kind by lottery would have to show a proper qualification just the same as he or she would have to do if they attempted to make a location under the laws existing to-day.

Mr. JONES of Arkansas. It is to be done in accordance with the laws.

Mr. CLARK of Montana. It is to be done in accordance with the laws on the statute books. I have lived for the greater part of my life in the Western country; I have seen the endeavors of citizens of the United States to acquire title under the preemption laws, under the desert-land act, and under the homestead act, and I have never yet found a condition of things existing such as has been graphically described by the Senator from Wisconsin [Mr. QUARLES].

Mr. President, there may be some speculators who would attempt to locate some of these lands for the purpose of selling them to others who might succeed them, but if they did they would violate the laws of the land, and that entry would be canceled by the General Land Office. Practices of this kind are occurring, but universally they fail of accomplishment. I have known a great many entries to be canceled for that reason. After the first filing on a location under any of the above-mentioned acts relating to the entry of lands on the public domain the right of the locator is exhausted, and any attempt thereafter to repeat it would subject the individual to criminal prosecution.

There is a part of the Crow Reservation, in the State of Montana, which was thrown open to settlement a few years ago, the title to the lands having been relinquished to the Government by the Crow Indians. It embraces a territory some 5 or 6 miles in width and 20 or 30 miles long, lying on either side of Clarks Fork of the Yellowstone River. That land was lying there, just as the land lies in most of these reservations in the Western country, uncultivated and unused and unnecessary for the wants of the Indians. It was thrown open to settlement and homesteaders came there and made

locations, and they have made that desert blossom as the rose. For 15 or 20 miles a visitor may go and see the land reclaimed and brought under a successful state of cultivation. The most beautiful wheat fields and other cereal fields may be found there flourishing to-day. They have built up a large and a useful community, contributing their share to the world's wealth. I know personally a number of those people, and I believe that they represent a type of manhood and of citizenship as high in standard as can be found anywhere in this country. Of those men, all that I know, and all concerning whom I have ever heard—and I am very familiar with that part of the country—took up the land in good faith, and they have settled on and improved it and made it worth from \$15 to \$30 an acre.

It is true that a number of them commuted their homesteads after two or three years, when they became able to do so, by selling the product of their farms; but generally it was not done for the purpose of selling out their holdings, but in order to be sure about the titles and have them confirmed, so as to know that for their little holdings, upon which they had been struggling for some years to make homes for themselves and their families, they were to have a tenure that was durable and permanent to them.

Now, Mr. President, as to the purchase of these lands from the Indians by the Government of the United States, I think generally it is provided that the proceeds shall be applied for the amelioration of the condition of the Indians, to enable them to buy live stock, to enable them to build grist mills, and to fence their premises, where there is danger of invasion, and for other useful purposes. If the Government did not purchase their lands, I think in most cases it would be obliged, as it is now doing to-day in many instances, to pay annuities to these

Indians and to feed them and to clothe them, and, really, in many instances, to pauperize them. We had better, by far, give them the implements of agriculture and horses and cattle for breeding purposes and let them work out a living for themselves.

So I take it that the money which will be expended in the relinquishment of the titles to these Indian lands will be held in trust, or will be expended under the direction of the Secretary of the Interior for the benefit of the Indians, and it is not a parallel to a case where the Government would go outside and purchase lands for the purpose of throwing them open to free settlement. Having once acquired the title to these lands, whether by purchase or by any other means, I believe it to be the duty of the Government to throw them open to settlement as free as any other portion of the public domain. Why should they discriminate as to the manner of entry? If it is thought wise to buy these lands at a reasonable price, let them be thrown open and let the law be uniform as to all the holdings of the United States. In this respect the constituents of the distinguished Senator from South Carolina have as fair and equal opportunity as those who live in the immediate vicinity of the lands to obtain homes for themselves, where they may rear and educate their children. I believe in the policy of throwing open these lands for free entry to the struggling yeomen of the country, where they may establish happy homes, enjoy the fruits of their own industry, and thereby contribute to the advancement of civilization to the great empire of the West and likewise to the wealth of the nation and of the world.

Mr. HANSBROUGH. Mr. President—

Mr. PLATT of Connecticut. It is very evident that this discussion can not be completed this morning.

Mr. COCKRELL. It is nearly 2 o'clock.

Mr. PLATT of Connecticut. I simply rose for the purpose of asking that the same order with reference to the bill might continue to-morrow morning that existed this morning.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent that after the routine business of the morning hour to-morrow the Senate shall proceed to the consideration of this bill.

Mr. PLATT of Connecticut. I think it can be disposed of in another morning.

Mr. TELLER. I wish to give notice of an amendment which I shall offer at the proper time.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Connecticut? The Chair hears none.

Mr. TELLER. I think the Senator from Wisconsin who addressed the Senate can avoid all danger of appropriation by these traveling settlers he talks about, which I suppose exists somewhere, but I have never seen any of them in my experience in the West, by not allowing any homestead commutation at all on these lands. If the settlers are required to live five years, the people who ought to have the lands are sure to get them. I wish to move an amendment to the amendment of the Senator from Connecticut by striking out, on page 6, all of the twenty-fifth line after "entry," and lines 1, 2, and 3 on page 7, and then inserting:

No person taking a homestead under the provisions of this act shall be allowed to commute under the provisions of section 2289 or section 2301 of the Revised Statutes.

I ask that the amendment be printed.

The PRESIDENT pro tempore. The amendment will be printed and lie on the table.

Mr. TELLER. I will have something to say on the subject to-morrow morning.

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, which will be stated.

---



[35 Cong. Rec. 4911-4918 (1902)]

# AMENDMENT WITH INDIANS OF ROSEBUD RESERVATION.

The PRESIDENT pro tempore. The Chair lays before the Senate Senate bill 2992.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect.

The PRESIDENT pro tempore. The question before the Senate is on the amendment offered by the Senator from Connecticut [Mr. PLATT].

Mr. PLATT of Connecticut. Mr. President, I know the Senator from Missouri [Mr. COCKRELL] desires to submit some observations upon this matter.

Mr. HANSBROUGH. Mr. President—

Mr. PLATT of Connecticut. The Senator from North Dakota, I understand, desires to address the Senate.

Mr. HANSBROUGH. Mr. President, I listened with a great deal of interest yesterday and the day before to the discussion of this measure. The debate took a very wide range, altogether too wide, I think, because some of the Senators undertook to criticise the action of the Interior Department in disposing of the lands in Oklahoma and others seemed to assume that quite all of the people who go into the Western country in search of homes are speculators and men of bad character.

I was particularly interested in what the Senator from Wisconsin [Mr. QUARLES] had to say on this latter subject. It is true, doubtless, that the great army of home seekers who have gone out on the Western plains have, from time to time, been followed by a class of people who might be denominated as speculators. The fact is

that no army ever moves in any enterprise that is without its camp followers. But as to the intimation that most of these people, or any considerable number of them, are speculators, I desire here and now to make my protest.

I do not know how it was in the State of Wisconsin or in the State of Michigan or any other State where the principal interest is pine lands. I do not know if the speculator dominated the disposition of the pine lands in Wisconsin. Perhaps I ought not to refer to the methods under which those pine lands were disposed of or compare the class of men who go into the country west of the Mississippi River to seek homes upon the prairies with the class of men who have remained in the State of Wisconsin and other pine-land States and taken possession of the pine lands. But I imagine that if an investigation was had it would develop that there were quite as many speculators in the pineries as there are to be found upon the prairies of the West.

Now, a word with respect to the methods under which these Indian lands are disposed of. The Senator from South Carolina [Mr. TILLMAN] yesterday criticised the methods employed by the Interior Department in disposing of the lands in Oklahoma and found fault with the plan known as the lottery plan.

Mr. President. I do not favor lotteries as a general thing. Indeed, while I was a member of the House of Representatives I introduced and had passed in that body what is known as the anti-lottery bill. That bill became a law, and under that law the Louisiana lottery has practically gone out of business. So that I am not, generally speaking, in favor of lotteries. But I submit that under the circumstances, with the great pressure that exists on the part of the masses of the people who are seeking for homes whenever there is vacant land, it was utterly impossible for the Interior Department to dispose

of the lands in Oklahoma in any other way than by the method which was adopted; in other words, by the lottery plan.

Mr. TILLMAN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from South Carolina?

Mr. HANSBROUGH. I yield.

Mr. TILLMAN. The point I tried to make was not so much against the lottery as against the condition which resulted from the lottery, and that was that the speculators or persons who really had no intention or purpose of settling on the lands and making homes rushed in to get advantage of the benefaction or largess of the Government in opening the land to settlement by homesteaders. If the Senator can devise any scheme by which no one but bona fide home seekers, men who have no homes and want to get homes, will be alone allowed to receive the benefits and to make application for homesteads. I can see that such a scheme, if it can be devised, would largely reduce the danger of any future lottery.

The condition which I brought up here was that we ought not to subject ourselves to the charge of injustice to the taxpayers by buying land for which we pay two, three, five, or ten dollars an acre, whatever amount it may cost, and then turn around and give it to a lot of people who do not need it and who are better off than some of us, who rush in and seize upon the opportunity to make a homestead entry. If they draw a prize, they will go and locate, and then they will hire somebody to go in and do whatever is necessary to preserve their homestead rights, and as soon as they get a chance they turn in and sell their claim and get the profit and go about their business, so that the taxpayers are fleeced and the home seekers are robbed of the opportunity to obtain homes. That is the idea which, if the Senator will

elucidate, will benefit us a great deal more, I think, than to discuss the question of lotteries.

Mr. HANSBROUGH. Mr. President, I hope to reach that phase of the case before I have concluded, but I desire to say a further word with respect to the lottery system. I think it would have been utterly impossible for the Secretary of the Interior to have disposed of the lands in Oklahoma and on other reservations in any other method than by the lottery method, because there were probably 50 people on the ground for every 160 acres of land to be disposed of in that country. Now, I ask the Senator from South Carolina and other Senators, How are you going to select from that number of people the particular individual who shall have the right to take and occupy 160 acres, if not by the lottery system?

Mr. TILLMAN. If the Senator will permit me, I can see the difficulty of the Government officials undertaking to differentiate or to pick out from among the applicants for homesteads those who are bona fide and those who are not, but if the land has a price fixed does it not at once eliminate to a great degree the speculative applicants? Will any gambler be there seeking a homestead if he has got to pay some money? Is it not the gambler who expects to get something for nothing, who is on hand in these large numbers seeking to elbow away and to shove aside the actual bona fide applicant for a homestead, who is poor and wants to get some mother earth under this feet and get a title to it?

Mr. HANSBROUGH. Well, Mr. President, I do not believe—

Mr. TILLMAN. Will not putting a price on the land have a tendency to eliminate the speculator?

Mr. HANSBROUGH. I think not. Wherever the land is valuable there is going to be a very large number of people who are ready to buy it. Then comes the question



as to who shall be entitled to make the purchase. Suppose again, that if there are fifty men on the ground—

Mr. TILLMAN rose.

Mr. HANSBROUGH. I do not want to yield just now. We will suppose that if there are fifty men on the ground to each 160 acres of land, and all of them will have to pay \$2.50 or \$3.50 or \$5 an acre for the land, to which individual will you give the right to enter upon that land and make payment if not by the lottery system?

Mr. TILLMAN. Will the Senator allow me now?

Mr. HANSBROUGH. Certainly.

Mr. TILLMAN. In competition for any given land the easiest way and the only sure way to settle it is to put it up to the highest bidder, and if instead of a lottery to determine who shall by chance have the privilege of getting a homestead, if these lands are valuable, you simply say, "Well, here, lot No. 7 is for sale. Bid up for it." If John Smith wants it at \$2 and nobody else wants to give any more, let John Smith have it: and so on through the line. You can eliminate the injustice which now obtains by the lottery system by letting the land bring what it is worth and letting the money come back to the United States which has bought it or have bought it. I do not know how to get that noun down to a singular verb, but I believe the courts have decided that the United States are to be considered as is, or in the singular, We can determine that question very readily and easily and without any friction by simply saying that the lands on a given reservation, having been purchased by the United States and there being more applicants than there are homestead entries, we will, instead of having a fixed rate for all of it, put up each lot separately and "let the longest pole get the persimmon."

Mr. HANSBROUGH. I am afraid that under that system the Senator from South Carolina and myself

would fare very poorly as against the class of gentlemen who have more money than we have. I think they would outbid us and we would come away without having procured any land, especially in the case of Oklahoma, where I understand the lands are to-day worth from \$30 to \$50 per acre.

I call the attention of the Senator from South Carolina to the further fact that right here in this body we decide who shall have seats, sometimes, by the lottery system.

Mr. TILLMAN. I have never known it to be done since I have been here.

Mr. HANSBROUGH. We are obliged to do it.

Mr. TILLMAN. I have never known it since I have been here.

Mr. HANSBROUGH. We are obliged to do it.

Mr. TILLMAN. I have never known it since I have been here.

Mr. HANSBROUGH. It has taken place.

Mr. SPOONER. That is because it has not been done since the Senator came here.

Mr. TILLMAN. Was it ever done?

Mr. SPOONER. Yes.

Mr. TILLMAN. When?

Mr. SPOONER. When two Senators—

Mr. TILLMAN. It is done in the House, but this body being a continuing body, without ever dying, and there always being old Senators here who have gotten the best seats, the new ones have to take what is left. It is "first come first served."

Mr. HANSBROUGH. When the State of North Dakota came into the Union, and two Senators were sent here, there was a question who should occupy the two years' term and who should fill the four years' term.

Mr. TILLMAN. That is the term and not the seat.

Mr. HANSBROUGH. And that was decided by lot.



Mr. TILLMAN. I say, Mr. President, if I may be permitted—

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from South Carolina?

Mr. HANSBROUGH. I shall be obliged to do so.

Mr. TILLMAN. That was a question of the tenure of the two Senators elected at the same time, as to which should have the short and which should have the long term. I thought the Senator was referring to our chairs here.

Mr. HANSBROUGH. I do not care to prolong the discussion on the lottery aspect of this case, and I will now refer to the bill under consideration.

I think that each of these cases should be allowed to stand upon its own merit. In the case of the Rosebud Reservation I understand that the lands perhaps are not worth \$2.50 an acre, the price specified in the bill, and if this bill is passed with that provision in it there is grave doubt whether the lands would be in such demand by settlers as to cause them to be taken by those who are seeking homes in the Western country at the present time.

If there is any such doubt, Mr. President; if there is a probability that there would not be sufficient demand for these lands to cause their occupation by settlers for the purpose of cultivating them and making farms of them, and with the additional purpose of putting white people among the Indians, with a view to their further civilization, then I believe it would be well to eliminate the provision under which it is proposed that \$2.50 an acre shall be charged, and allow them to be taken under the free-homestead clause.

I am inclined to think that the amendment offered by the Senator from Colorado [Mr. TELLER] on yesterday should be adopted, eliminating the commutation clause

of the homestead act so as to require the settler who goes upon the land to live there five years, and thus eliminating the possibility, to a great extent anyway, of speculation. Of course, after a settler has lived there five years and has acquired title you can not prevent him from selling the land to some man who may want to buy a whole township, but if you have required him to live there five years, the Government has done its uttermost to prevent speculation. For that reason I think a provision should go into the bill eliminating the commutation clause of the homestead law.

I think that each one of these cases should stand upon its own merits, because in the different reservations there are no two cases alike. The land in the Rosebud Reservation is not of a quality which attracts settlers, whereas in my own State, in the Devils Lake Reservation, where we are proposing to throw open about 101,000 acres of land, the lands are worth to-day at least \$15 per acre. I think it is no more than fair that the settler upon those lands should pay the price that the Government pays the Indians, and for that reason I yielded to the amendment offered by the Senator from Connecticut when that bill was up for consideration and allowed the free-homestead clause to be stricken from the bill, although the bill had been drawn by the Interior Department and the free-homestead clause inserted.

To-day, Mr. President, there are at least 1,000 people in the vicinity of that reservation anxiously awaiting the passage of the bill so that they may go upon those lands. When the time comes for them to go upon the lands it will be found that there is room for about 650 entrymen, and there are fully a thousand people on the ground now waiting to take advantage of the opportunity of securing a home there. So it would be absolutely necessary, if I may be allowed again to refer to the lottery phase of this

case, for the Secretary of the Interior to provide some method whereby these people may decide by lot as to who shall take advantage of the opportunity.

Mr. President, there was a time in the history of this Government, when the homestead law was enacted, when the preemption law was enacted, and when the timber culture law was enacted, when the Government of the United States was looking in every direction for settlers with whom to populate the public domain of the country. But that time has gone by. At the present moment the settler is soliciting the Government to secure a home for him. The arable public domain of this country is about exhausted. There is but very little of it left at the present time.

It was for that reason that the Senators and Representatives from the arid and semiarid States at the beginning of the present session of Congress got together and formulated the bill known as the irrigation bill, which passed this body some months ago unanimously and which now reposes in the sacred keeping of the leaders of the other branch of Congress. The purpose of the framers of that bill was to provide homes for the home seekers of the United States.

My attention was called recently to a most peculiar situation. Owing to the scarcity of lands in the Western States at the present time thousands of people are now going into Manitoba and the Saskatchewan country, in Canada, to secure homes—leaving the United States and going to a foreign country to secure lands. Could there be any better argument in favor of an irrigation bill, so that we might provide homes for these people and keep them here, keeping our own citizens in the United States?

A prominent official of one of the leading railroads of the country told me the other day that 7,000 people from the State of Iowa had gone to Manitoba in the past

sixty days to find homes, which they could not find on this side of the line. I would be surprised if anyone should tell me that any man from the State of Iowa should stand in the way of the passage of the irrigation bill, so that the people who are now going from the State of Iowa to Manitoba and elsewhere in Canada might remain here as citizens of the United States.

So, Mr. President, without prolonging this debate, I want to say in a word that I think in the case of these Rosebud lands, if the Senators from South Dakota think the lands could not be readily sold for \$2.50 an acre, perhaps an amendment might be put into the bill providing that they shall be sold for \$1.25 an acre. If the Senators from South Dakota think that settlers would not be attracted by fixing the price at \$1.25, then I think the land should be purchased and thrown open and settlers should be allowed to go in and live there five years, without paying anything whatever for the land.

Mr. TILLMAN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from South Carolina?

Mr. HANSBROUGH. I was about through, Mr. President, but I yield.

Mr. TILLMAN. I would ask the Senator, if he supposes there is any doubt about the bona fide settlers being willing to buy these lands at the upset price, what need is there to open up this reservation? Why should we be paying this million dollars or whatever the amount is that we are going to pay to the Rosebud Indians to get land that nobody wants? Why should we pass a bill here at all? Why not let the Indians alone in the peaceful enjoyment of their reservation, and wait until the demand for homes or for more land by the Caucasians makes it desirable to open the reservation?



Mr. HANSBROUGH. Right on that point, Mr. President, I desire to say that the purpose of throwing open the Indian reservations and allowing white settlers to come in and take the lands is that the Indians may have the opportunity of mixing with the white people and learning something of our methods. I think their civilization will be thereby greatly hastened. That is the object of opening the reservation.

Mr. TILLMAN. The Senator does not, of course, expect me to believe that, though he says it undoubtedly in good faith.

Mr. HANSBROUGH. Certainly.

Mr. TILLMAN. Any man who has been in the West and who has run up against this Indian problem and the condition of those Indians, with their gradual pauperization and the absorption of their lands by the whites, knows that love of the Indian is about the smallest quality or quantity in the minds of men in the West.

Mr. HANSBROUGH. The Senator from South Carolina is constantly looking for fraud somewhere. He has always got the tail of his eye on some one whom he regards as a suspicious character, and if we come in here with any measure, no matter what the measure may be, the Senator is going to pick flaws in it.

Mr. TILLMAN. I picked no flaws in the irrigation bill; on the contrary. I got up here and advocated the passage of the irrigation bill.

Mr. HANSBROUGH. That is true.

Mr. TILLMAN. Then the Senator ought to apologize for the accusation he has just made.

Mr. HANSBROUGH. I apologize to the Senator so far as the irrigation bill is concerned.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Connecticut [Mr. PLATT].

Mr. PLATT of Connecticut. Mr. President, I think the Senator from Missouri [Mr. COCKRELL] desires to be heard on this matter. I have sent for him, and I hope he will soon be here.

Mr. TELLER. Whilst waiting for the Senator from Missouri, I want to call attention to the amendment I proposed yesterday, which will be found by looking at page 6, beginning in line 25, striking out the words "except that homestead settlers who commute their entries under section 2301, Revised Statutes, shall pay for the land entered the price fixed therein." The price fixed is \$2.50. I propose to strike that out; and, not going any further, that would undoubtedly leave the settlers entitled to enter their homesteads at a dollar and a quarter an acre.

What I desire to accomplish by this amendment is not to allow the homesteaders on this land to commute it. I want to avoid what the Senator from Wisconsin [Mr. QUARLES] and some other Senators seem to be disturbed about. I want to avoid speculators going in there and getting the land, and I think the amendment I have offered will accomplish that purpose, because no speculator will go in if he has got to live on the land for five years; but it will enable the poorer class of people to go in and make homesteads on this land.

Mr. President, I want to say a word or two about the complaint which has been made here that we are buying land from the Indians, paying money out of the Treasury to the Indians for the land, and then giving the land to settlers. The policy of the Government of the United States from its very organization has been that the Government was the trustee of the land for the benefit of the people; and when there did not appear to be in this country any speculative disposition the Government allowed, under the preemption act of 1842, entries under



some limitations. Before that there had been very little limitation. The settlers had been privileged to go upon the public land, pay a dollar and a quarter an acre for the land, and obtain title to any quantity they saw fit.

After 1842, and perhaps before that time, the practice was this: The settler could go upon land, live upon it about two years and a half, and then pay for it: or if he had enough ready money he could find plenty of land that had been offered for sale. The Government having offered the land for sale and not finding a bidder, it was returned and then was opened to preemption, as we called it, without any occupation of it. The settler could go and buy 160 acres of land, or any other number of acres of land which he had the money to pay for, at \$1.25 an acre. There was not under that system, which was an open system, any considerable aggregation of public land in the hands of individuals.

I have seen thousands and tens of thousands of acres of good land that could be bought for \$1.25 an acre stand in the market year after year with nobody offering to purchase it. That was true in all the States of the West. That land is worth now a great deal of money, or at least some of it is. Of late years, within the last fifteen or twenty years, or probably twenty-five years, there has been a good deal of a disposition on the part of capitalists to buy lands in large quantities.

Mr. PLATT of Connecticut. Will the Senator allow me to ask him a question?

Mr. TELLER. Certainly.

Mr. PLATT of Connecticut. I understand that originally the law was that a person could go and locate land anywhere and pay \$1.25 an acre for it.

Mr. TELLER. Yes.

Mr. PLATT of Connecticut. And he could also locate land under military bounty land warrants. But there came

a time— and I should like the Senator to explain how it was—when large tracts of land were obtained for small sums per acre. I remember in 1863, when I was out in Omaha, I was told that a man who had been a Senator of the United States had acquired under the land laws, in some way or other, several thousand acres of land which had not cost him more than 10 cents an acre.

Mr. TELLER. Where had he bought the land?

Mr. PLATT of Connecticut. In Nebraska, which was then a Territory. There had been some law in existence under which he had been able to get that land at a low price.

Mr. TELLER. I think that is a mistake as to Nebraska; but this has been the rule for many years: After public land had been offered in the market a certain length of time, the price was changed from a dollar and a quarter an acre to something less, and so on down until the price had got as low as 12½ cents an acre.

Mr. PLATT of Connecticut. Where there was no demand for the land, and it was open for entry and not taken, was it not put up at auction and sold?

Mr. TELLER. In the first place the land was put up and offered at \$1.25 an acre to the amount of many thousands of acres. After the land was put up no one would go there, because a man could go the next day and take it at \$1.25 an acre, just what he would have to bid, and after the land had been returned unsold, then it was open to any person who wanted it in any quantity. The longer settlers stayed off the land the lower the price went, until sometimes good land was sold in the State of Missouri for 12½ cents an acre. That was under what was called the graduated land act.

There was another method by which land could be acquired, and that was by military bounty land warrants, representing \$1.25 an acre in locating lands, which sold in

the West sometimes as low as 25 cents an acre. Yet, with all these opportunities, there was no considerable amount of land taken except by actual settlers.

In 1861 the Government of the United States changed its policy by the adoption of the homestead law, and allowed public land to be taken without any payment whatever, provided the settler would go upon the land and stay there for five years. Under that law there has been an immense quantity of land taken, thousands and tens of thousands of acres, and thousands and tens of thousands of homes have been made all over the West. Of course that to some extent reduced the income of the Government. These homesteaders, after they had lived on the land for the given period of time, could go and pay \$1.25 an acre and get a good title. A great many homesteaders, after they had lived the required time on the land, so that they could do so, went and paid \$1.25 an acre for the sake of having an absolute title and knowing that the property was their own. I think of all the things of which the Republican party can boast the most beneficial act of civil policy they have ever performed was when they freely donated to the people the public lands. The result was an increased settlement in the West and Northwest.

Mr. President, I have seen something of the settlement of the West in at least four or five States. I have been going back and forth through them for the last thirty-odd years—now pretty nearly forty years—and I want to say to the Senator from Connecticut [Mr. PLATT], who seems to think that these people ought to pay \$2.50 an acre for this land, that any man who goes upon one of those quarter-sections of land and makes a home there is entitled to the land without paying a single cent for it, and the Government of the United States ought to be delighted to have him do so. There is not an acre of

public land left to the United States Government, nor is there an acre inside of any Indian reservation, that the Government ought not to be glad to buy of the Indians and see some settler go on it.

Senators who live in the Atlantic States, and who were born so late in the history of this country that they have not seen that new country developed, do not know anything about what it costs to settle up a country: they do not know what it meant for a man to pioneer in the Dakotas, or in Iowa, or in Nebraska, or in Kansas, or in Colorado, or in Montana, or in any of those Western States. It is true, Mr. President, now that the lands which early settlers got for nothing may be worth \$50 or a \$100 an acre, but they have made them so. But for their presence those lands would not be worth any more than they were fifty years ago.

For myself, I have not any fear of the Government of the United States being robbed by taking in all the reservations at any price that we are likely to pay for them, and shearing them of all the land which is not needed and giving it to the settlers.

Mr. President, we have some new possessions now. We have ten or twelve million people under our control, whom we declare to be under our protection, who have had no opportunity of receiving the benefit of free homes from the Government. There are supposed to be 500,000 acres of land now owned by a religious order in the Philippines called the friars. I find in a bill pending here a proposition that we shall condemn that land, make it public land, and sell it to the people. I do not know how we are going to condemn it; but, leaving that question out of view, if we condemn it we have got to pay for it, and we probably shall pay twice what that land is really worth—twice what the Government ought to pay. My own judgment is that it would be well for us to pay



almost any price that is demanded of us rather than not get the land.

Mr. PLATT of Connecticut. What is that?

Mr. TELLER. I am referring to what are called the friars' lands in the Philippines. That subject, of course, is not touched in this bill, but I was referring to the principle of this bill, which I think ought to be applied to those lands. What we shall pay for those lands I do not know, but I should think, from the information I have, that we are likely to pay twice the amount the land is worth. I would very much prefer to see the Government buy it for twice what it is worth than not buy it at all. When the Government buys the lands at twice what it is worth, I do not want to see it sold to the people who are going to live on it at the price we buy it for.

On the contrary, Mr. President, I do not want to see it sold to them at all. Many of the occupants of this land are men who have lived upon it during all their lifetime and the lifetime of their parents before them. I believe it would be good policy for the Government of the United States to buy that four or five hundred thousand acres of land, divide it into holdings not to exceed 40 acres, and then give it to the people who are living on it. I think we could never invest a few million dollars with half the benefit and profit to us that that would be. I believe it would go far to compose the difficulties which exist there, and that it might create a friendship for the Government which can not be secured by all the armies that may march over that country with all the pomp of war. As it has been the policy of the Government for a good many years to make the land free, or so free that every man, no matter how poor he may be, can get a home upon it, I hope that principle will be applied when we succeed in securing that land. I have simply taken advantage of the pendency of this bill to say this because

I have felt like saying it for some time.

Mr. President, I do not know how much land is involved in this bill, but the more land there is involved in it, the more anxious I am that the land shall be made free—the more anxious I am that the people who go upon it shall not be asked to pay a single dollar to the Government of the United States for the title they can get by living on it. I do not believe that the United States ever in its history invested any money that has been so valuable to it and has returned such great rewards as the money invested in these and other lands, and the money that they might have collected, but did not collect, out of settlers in the West and Northwest.

My friend from South Carolina [Mr. TILLMAN], who sits near me, says that he does not want to see the taxpayers burdened by the passage of this bill. Mr. President, I have myself some little interest in the taxpayers, but I lose some of that interest in trifling things of that character from a financial point of view when I see the Government of the United States spending two or three hundred million dollars a year—\$200,000,000, at least—on the Army and the Navy, and doing so without embarrassment, when we have a great overflowing Treasury, with \$180,000,000 at the command of the financial department of the Government and \$150,000,000 more which is locked up in the banks of the country and might, so far as the Government is concerned, as well be in the sea, and that money being kept there for the supposed purpose of the redemption of some obligations of the Government, never to be used. The Government of the United States can not plead poverty; it can not plead distress, with all these great expenditures. I think I shall be safe in saying that there is not any country in the world where the people feel so little the burdens of taxation of a national character as in this country.



I hope. Mr. President, that we shall economize; but I hope that we shall not commence economizing with the settlers. I know that 8400 may not appear to be very much to members of this body; but \$100 is a great deal of money to a settler. It is more money than a great many farmers in the West ever had together at one time; and there are thousands and tens of thousands of men who have good homes and who have valuable holdings who never could have had them because they never could have raised money enough to buy them if the Government had not said, "That is free land and you may go and take it."

I do not see how anybody, when he looks over the growth of the Northwest and the character of its population, which compares most favorably with any population on the face of the earth, can think we have made a mistake in giving to these people free lands, and I can not see why anybody should be disturbed now that we are going to remit to the settler the payment of \$400 if he goes upon a quarter section of land and makes his home there for five years, as he must do under the terms of my amendment if it be adopted. As suggested to me, the Government is paying less than 25 cents an acre for this land when it buys it from the Indians.

Mr. PLATT of Connecticut. What is that?

Mr. COCKRELL. The Government pays \$2.50 per acre.

Mr. PLATT of Connecticut. Certainly; the Government pays \$2.50 an acre for the land.

Mr. TELLER. The statement I made was based on a suggestion made to me by a Senator sitting near me.

Mr. JONES of Arkansas. More than 4,600,000 acres.

Mr. PLATT of Connecticut. Four hundred and sixteen thousand acres, I believe.

Mr. TELLER. I have not looked into the details to ascertain as to that.

Mr. GAMBLE. The number of acres purchased is 416,000.

Mr. JONES of Arkansas. I thought it was 4,600,000.

Mr. GAMBLE. No; 416,000 acres.

Mr. TELLER. Suppose it is. The property belongs to the people of the United States; they are entitled to it, and they are entitled to have it in such a way as will do the most good to all of them. Of course there are tens of thousands of people who can not go and take homesteads, but they will be benefited to every homestead that is taken. There is not a man, woman or child in the United States who is not benefited when homesteads on those 116,000 acres are occupied by intelligent American citizens and farmers.

Senators who have lived in the West have seen committees built up there; they know what the settlers have had to do, taking the raw, uncultivated earth, with not a building of any kind in existence, but every building having to be erected, every road and every bridge to be constructed and to be paid for out of the hard earnings of that class of settlers. Mr. President, the very development of the country comes out of those people; and where you go over that country you see fine homes, fine farms, and fine roads, all of which have been built by the toil and the labor of the settlers; and inasmuch as a settled country is better than a desert so it is better that we should let the people go there and occupy the land, and we ought to let them go upon terms that will cover the country with population as speedily as possible.

I do not know whether this land is distributed amongst the Indians or not, but I judge it is from a remark made by one of the Senators who spoke yesterday. If, however, it is not distributed around amongst them, it is the fact that the Government in giving to these Indians their allotments withholds the lands from the operation of the

tax laws of the States. Within the last three years in the State of Colorado the Government has allotted lands to a large number of Indians, throwing open a portion of a reservation to settlement, which the people have taken. This land is to be reserved from the operation of the tax laws, according to my recollection of the treaty, for twenty-five years, during which time they will pay no taxes whatever upon personal property or upon the lands. That means an additional tax and an additional burden upon every settler who is upon those lands.

The intervening sections have been taken up, and a quantity of land on one side has been taken. They are all in the same municipal community or county, and the Indian who has thousands and thousands of acres contributes nothing in any shape or form to the development of the country. What he fails to contribute or what he would have to contribute if he were a white man living on that land, must be contributed by the white man who lives on the other land.

When all these things are taken into consideration, there is absolute justification for giving these lands to the people without compensation. Nay, more than that, Mr. President, it is an absolute injustice to demand that they shall pay any price whatever for that land; it is contradictory to the policy we have been pursuing, which is to open the public lands to the settlement of an independent farming people just as rapidly as possible.

I do hope that this bill will become a law with that provision left out of it, and that settlers may be allowed to take the land and not buy it, under the homestead law, with the exception that they shall not commute, but shall live on the land for five years.

Mr. TILLMAN. Mr. President, there is one phase of this matter to which I will briefly refer before we come to any vote, and that is to direct the attention of

Senators to the fact that we have fixed charges on the Treasury amounting to some \$1,800,000 or something like that, for the land-grant colleges. Under various acts of Congress the several States and Territories have had endowed, out of the fund received from the sale of public lands experimental stations and schools of agriculture. I want to direct attention to the fact that if we continue to give away the arable land, and if we shall have the act which was passed by this body become a law by being passed by the other body, donating all the proceeds of the public lands to be sold hereafter the irrigation scheme, unless we get some fund from the sale of the Indian reservations that are thus opened to settlement the source of endowment of the land-grant colleges will disappear and we shall be called on to take money that will be derived from taxation to support these colleges. That is well worth the consideration of Senators whose States are not interested in this matter.

Mr. GAMBLE. Mr. President—

The PRESIDING OFFICER (Mr. BLACKBURN in the chair.) Does the Senator from South Carolina yield to the Senator from South Dakota?

Mr. TILLMAN. With pleasure.

Mr. GAMBLE. It is my understanding that during the discussion of the bill passed two years ago it was directly stated that the proceeds from the sales of public lands were insufficient to support the agricultural colleges and experimental stations, and they would come directly from the Federal Treasury; and it is our understanding that for some years it has been paid directly from the Federal Treasury without any regard to the amount received from the sale of public lands. I think it has been so returned in the estimates of the Department.

Mr. PLATT of Connecticut. There has been enough received up to this time to make it good.



Mr. TILLMAN. There has always been more than enough from the sale of public lands to furnish the source of supply to keep the obligations or the implied pledge of the Government to the land grant schools. But the demand will come sometime or other, when the condition of the country is not so prosperous and taxation bears heavily upon the people, that we shall economize. If we now by legislation dispose of all the public domain the condition will be this: There will be nothing left of the arid region, because all the lands in that region are to go for irrigation, and the only remaining arable land will be Indian reservations; and if we give that away, after buying it at these prices. I want to know where the money is to come from to meet the obligations to the agricultural and mechanical colleges. We have to meet it after we get rid of all of the land, and we should not, like a spendthrift, inaugurate a policy which will bring us face to face with a donation from the Treasury.

Mr. STEWART. I call the attention of the Senator from South Carolina to a paper which I desire to present out of order. It is the memorial of Charles Polkinghorne and sundry other citizens of Nevada, remonstrating against the enactment of legislation to provide for the leasing for grazing purposes of vacant public lands and reserving all rights of homestead and mineral entry, the rental to be a special fund for irrigation.

I would suggest to the Senator that the proposition now before Congress will be worked up to a considerable extent to lease them all to cattlemen. That will dispose of irrigation and dispose of any proceeds to carry on these schools. My constituents all protest against it and hope no such measure will be passed.

The PRESIDING OFFICER. If there be no objection, the petition will be received and referred to the Committee on Public Lands.

Mr. TILLMAN. I merely call attention to this phase of the question. The present endowment of these land-grant colleges and experimental stations, amounting to \$40,000 to each—and as there are some 48 States and Territories, I believe, making something like \$2,000,000, or in the neighborhood of it—is now derived from the proceeds of the sale of public lands. As soon as we have reached that point where the few remaining patches of arable land which people are willing to purchase and undertake to use in farming operations or in any other other than grazing are disposed of, and if this irrigation scheme shall go through the House, we are going to be face to face with the loss of the endowment fund to the agricultural and mechanical colleges throughout the United States, and I am opposed to any policy which shall handicap us or handcuff us and injure those schools by destroying the fund from which they now receive their endowment and thereby jeopardize those great institutions of learning.

Mr. LODGE. I should like to ask the Senator a question before he takes his seat. He alluded, in closing, to the irrigation bill. Is it not true that the whole of that system, in the bill which we passed, rests on the proceeds of the sale of public lands?

Mr. TILLMAN. Absolutely. The proceeds of the sale of every acre of the public land in a certain list of States west of the Mississippi, and that embraces all the public land practically, will go to the irrigation scheme.

Mr. LODGE. Then the policy of this bill would, in the first place, throw the agricultural colleges and the experimental stations onto the Treasury, and then would throw onto the Treasury the entire system of irrigation that we proposed in the Senate bill; and either the irrigation system must stop or the agricultural and



experimental stations must stop, or we must make fresh appropriations for them all.

Mr. TILLMAN. I do not know that I would go so far as to say that, but I will say that my understanding of the condition is this: If the irrigation bill becomes a law all lands in the semiarid region—and that will begin with the Missouri River and everything beyond—will go to irrigation. There are some reservations east of that region involved in the irrigation scheme, but unless we have land which we propose to buy from the Indians, in order to have some money, the agricultural and mechanical colleges will be placed under the necessity of coming here and saying to us, "Appropriate out of the money derived from taxation, for the public lands are all gone."

Mr. PLATT of Connecticut. With regard to the effect of the passage of this bill upon the scheme for irrigation, the facts are just these: The bill we passed provided that all moneys derived from the sale of public lands in certain States, among which is South Dakota, should be applied for irrigation purposes, and it was also provided in the bill that if the receipts from the sale and disposal of other lands not within the States enumerated should be insufficient to support the agricultural colleges there should be appropriations directly out of the Treasury for that purpose.

So as it stands now we appropriate for irrigation purposes the proceeds of the sales of public lands in South Dakota and the other States mentioned, and the proceeds of the sales of public lands outside of those States are applied to the support of agricultural colleges; but if there is not enough derived from the sales of land outside of those States, then appropriations are to be made from the Treasury to cover the deficiency. That is the precise statement of this matter with regard to irrigation.

With reference to the Rosebud Reservation, the Government is going to pay a million dollars to the Indians. If it gets it back by selling the land to settlers at \$2.50 an acre, there will be a million dollars derived from the Rosebud Reservation to go into the irrigation fund. If the Government is going to let the settlers have the land for nothing, there will be nothing derived from this reservation to go into the irrigation fund.

Mr. TELLER. I feel a great deal of interest in the irrigation fund, but I do not want, and I know the people of my State do not want, to build an irrigation scheme in Colorado at the expense of the settlers of some other State.

Mr. SPOONER. Will the Senator permit me?

Mr. TELLER. Certainly.

Mr. SPOONER. I was not here when the irrigation bill was passed, but as I understand it the proceeds of the sales of public lands in a State are not to be devoted to irrigation in that State.

Mr. TELLER. No.

Mr. SPOONER. So the money derived from the sale of public lands in South Dakota or in any other State may be applied to irrigation in another State?

Mr. HANSBROUGH. In Colorado.

Mr. SPOONER. In Colorado.

Mr. TELLER. Under the irrigation bill, if it should become a law, which I do not think it is quite fair to hold up here now, because it is not yet a law, if this land is sold to settlers in South Dakota the money can be taken and invested in the irrigation of Colorado lands.

Mr. SPOONER. If these lands are given to the settlers—and I do not know whether that ought to be done or not—so that the irrigation fund is deprived of that amount of money, money may be taken from the proceeds of the sales of public lands in Colorado and applied to irrigation in South Dakota.

Mr. TELLER. The same thing. But the irrigation bill has not become a law. I am afraid it will not for some time. Anyhow, we ought not to be basing our legislation here upon a bill which has not yet become a law. If I knew that the million dollars to be realized from settlers in South Dakota out of this land would be used in Colorado to build reservoirs, and if by my vote I could give the settlers this land free, I would certainly give it to them. I know we in Colorado do not want anything of that kind. We will not complain if the irrigation fund is depleted to the extent of a million dollars if it is for the purpose of giving free homes to settlers.

What is more, we have one of these land-grant colleges. I guess it is about as good as any in the United States. If the Government shall feel, when the time comes when money can not be derived from the sale of land, that it does not wish to put up the money for the college, I will guarantee that the State of Colorado will take charge of her agricultural college and run it. It will not be abandoned. It will be as good under our administration as it is under that of the Government. It may be, when the revenue from the lands ceases to come in—and it must some day; everybody knows that; we must reach that point ultimately, and it is not a great while ahead either, because there will be very little land that you can ever sell for more than the cost of irrigation—when the time comes when there is no money coming in from the sale of lands and the Government is met with the question whether it will maintain these agricultural colleges, and it says “no, it can not afford it,” there is not a State in the Union which is going to abandon its agricultural college. There is not a State in the Union which is not prepared to take up itself and carry on its agricultural college. There may be one or two among the new States which would be somewhat embarrassed by it, but they would do it all the

same. The colleges would not be abandoned. I do not think there need be any worry about that.

The simple question is whether it is a proper and just thing to put this burden upon the settlement of that particular part of the country and upon those settlers. I do not think you could put the million dollars to any use on the face of the earth which would justify this great rich nation of ours in taking it out of the pockets of the poor settlers.

Mr. STEWART. Mr. President, I am in favor of the free-home law, and I have been in favor of the law, but what staggers me is the high price we are compelled to pay the Indians. There is no way of reducing it. There have been one or two bills passed where the price was reasonable. With respect to Montana the evidence shows that the land was good. Most of it will be commuted, so the Government will lose very little. The land is good and there will be no great loss. In North Dakota the Senators from that State had good land and they consented to take it and pay for it.

In this case I have all the while been laboring under the doubt whether the land—after they have selected out a hundred thousand acres, the best of it, along the stream, knowing the land as I do, which is in the semiarid region and is high land—is worth \$2.50 an acre. It certainly is a fancy price to pay for it. If it is worth that it has been made so entirely by settlements. Originally it was worth very little for any purpose, and if it is worth \$2.50 an acre it is because settlements have crowded in.

I do not think the Government should be forced up in price by the Indians in this way. That is true not only in this case, but in other cases. If there is no way to acquire these lands for reasonable sums, if we are bound to buy them at the Indian prices and then open them to settlement, it is going to burden the Government beyond



all reason, and either we must let up at one end or the other.

If we have to pay fancy prices for the lands, more than they are worth, because the Indians say so, then we can not give the lands away. If we can buy them for what they are reasonably worth, all the conditions considered, and benefit the Indians by taking them, we ought to do so. The Indians are not benefited by having a large reservation. It is better for the Indians if you can keep them in close quarters where you can see them and attend to them. If they are permitted to roam over a vast country they will remain wild. These vast regions do them no good. We are educating their children. We are doing everything we can for them. We are supplying them with rations almost everywhere. We are treating them as wards. If we have to have these vast regions tied up until we pay the prices the Indians ask (and in many cases the Indians are not on the land at all, but are living around towns, off the reservation, and the reservations do them no good unless they cultivate them), we will have to stop the whole thing, because the country ought not to be burdened to pay these prices and then give the lands away.

I suggest that as reasonable men we ought to treat our wards as a guardian would be bound to do, for their own good. We educate them and feed them, and we ought to put them where they can learn agriculture. They can not learn it in a vast region. Put them on good land—we are doing it as fast as we can—and give them allotments. When there is a piece of land which the Indians do not want, which is of no use to them, then the Government should appoint a commission, which should state what the land is worth and what ought to be given the Indians for it. We have the power. That ought to be done. If we do that, we can go on and open the country. If we do not

do it, if we have to send out inspectors who must make contracts, who must get treaties, who go out and have to do what the Indians say in order to get the treaties, the same result will ensue. We have several inspectors who are good men, who would like to make reasonable bargains, but they can not make any bargain unless they do what the Indians want. Their success has all been obtained by submitting to conditions. It is not only this case, but there are others.

In this case I shall, as it came from the committee, vote to sustain the committee. I shall vote against the amendment and vote with the Senators from South Dakota; but I tell them that from this time on I shall fight every other treaty made with the Indians where the Indians fix the price of the land. You can not open the lands on that condition, and that the country may as well understand. You have to change the policy, or I am in favor of making no treaties, opening no more reservations, unless we can get them at reasonable prices.

Mr. JONES of Arkansas obtained the floor.

Mr. DIETRICH. Mr. President—

Mr. JONES of Arkansas. I yield to the Senator from Nebraska.

Mr. DIETRICH. I should like to ask the Senator from Connecticut if he believes that the money which we would derive from the sale of the lands we acquire from the Indians would be considered money to be used in irrigation?

Mr. PLATT of Connecticut. Certainly. That is the express provision of the irrigation bill. All moneys derived from sales of public lands in South Dakota and other States are to be thus applied.

Mr. DIETRICH. Those lands are not public lands at the present time. They are lands belonging to the Indians.

Mr. PLATT of Connecticut. They will be public lands when they are sold.



Mr. JONES of Arkansas. Mr. President. I was very glad to hear the chairman of the Committee on Indian Affairs make the statement he did a moment ago. I very earnestly believe in the homestead system. I do not believe any law was ever passed by Congress which was wiser or more beneficent than the homestead law. I believe the public domain ought to be devoted to making homesteads in the country, and I do not care whether the land comes from an Indian reservation or from anywhere else. Whenever any land comes into the public domain it ought to be opened to settlement and used for that purpose, whenever it is possible to make homes of it.

I believe there ought not to be any exception in this case to that rule, and I heartily indorse the proposed amendment of the Senator from Colorado [Mr. TELLER] and hope it will be adopted by the Senate. If this agreement is ratified and these lands become a part of the public domain, then they should be used for homestead purposes. But I have been somewhat struck with the fact that this debate has run along altogether on that question. It seems to me there ought to be no difference here. It seems to me everybody ought to be in favor of the settlers having the right to locate their homes on the public domain, no matter where it comes from.

The trouble about this business is the paying of these unreasonable and outrageous prices for the Indian claims on lands that they do not own. Now, we have gone forward with that to a most unreasonable extent. We have been buying lands from the Indians at fancy prices. Of course everybody knows how the Indians are. When they understand that the Government wants to buy what claim they have they will put a fancy price on it and ask just as much as they think they can make the Government pay. As was suggested by the Senator from Nevada one of these agents is sent out by the Government, and

he is bound to make some sort of an arrangement, and to do that he must accede to the Indians' demands.

The Indians have a mere right of possession. In a great many cases they do not own the land. They are simply put there for the purpose of occupying it, and the large boundaries which were made in establishing these reservations in the first place were, as a rule, to give them hunting grounds and to keep other people from going in close where the Indians were. That has been changed.

Some years ago we bought the Great Sioux Reservation and agreed to pay 50 cents per acre for the lowest price land. There are thousands upon thousands, if not millions, of acres of that land which have not been used for any purpose. I understand. Nobody goes on it. Nobody can make homes on it. It is not fit for homes, and yet we have paid to the Indians a price at which no American citizen could have sold that land if he owned it.

I believe the time has come when Congress ought to put a stop to that sort of thing; that these extravagant and unreasonable arrangements for buying Indian lands at a fancy price ought to be stopped. We ought to pay a reasonable price for extinguishing their right of occupancy in the land they do not use and never would use, and it ought to be paid with some degree of discretion and common sense.

I do not know whether or not the treaty ought to be ratified as to the purchase of this land. I confess most of the arrangements which have been made for some years past have been contrary to my own judgment. We have been paying unreasonable prices for the lands. I do not know much about this land. I thought it was a very much larger body of land than it is. I misread the bill. I thought it was 4,000,000 acres, and it was I who told the Senator from Colorado there were 4,000,000 acres. I thought 25 cents an acre, perhaps, was not an unreasonable price to

pay to extinguish some imaginary Indian title to a lot of this land which they have never seen and which they can not use and a good deal of which they never could use. Much of this land is utterly unfit for use. Some of it is doubtless good, and if private citizens owned it they could sell it for more, perhaps, than the Government will pay the Indians for it.

In the first place, I do not believe the Indians own the land, and I do not believe we should pay them as if they paid taxes and owned the property as other people own property. The Indians can afford to keep it for all time, if we allow it to be done, and thus prevent anybody from having access to it or deriving any benefit from it, as it carries no burden to the Indians, and they can insist that the Government shall pay them a fancy price whenever it wishes to extinguish their title.

That does not affect the fact with which I started out—that I believe any land which becomes a part of the public domain ought to be opened to the use of any American citizen who has not availed himself of his homestead rights to go and locate a home on it; and I hope there never will be any limitation of that kind put on any bill passed by Congress. If there is anything wrong about this—if too much money is to be paid for the land—let us cut down the amount and bring it down to a reasonable price, but do not undertake to disturb the homestead right, which I believe ought to be kept sacred as long as the Government exists.

Mr. TILLMAN. Mr. President, in that view of it, I think we had better recommit the bill and let the negotiations as to the value be renewed or resumed. There is a million dollars involved; there is a division of opinion and feeling here, the chairman of the committee advocating one policy and the Senators from South Dakota advocating another; and if we are not bound by

some obligations in morals and equity and justice to the Indians why pay them anything? Where do the Indians get any title or any show of title? Why do we make treaties with them? We certainly pledged to these people the honor of this Government some time in the past that if they would go within certain limits and behave themselves they would be let alone and the land should be theirs. We now say, "We are going to ignore that pledge, because we want your land. You are no good anyway. Die; and if you do not die we will kill you." That is the sum and substance of this argument.

I recollect here that a year ago we went over into the Pacific and bought from Spain, at \$2.50 an acre, some land there which we have given over to the Moros or to the parrots and the monkeys. I do not see why we should be fretting about land in South Dakota at \$2.50 an acre, when we are buying land in the Torrid Zone, 10,000 miles off, and paying \$2.50 an acre to Spain for it. In fact, I am very badly muddled about this whole business.

Mr. JONES of Arkansas. I do not think the statement made by the Senator from South Carolina should go unchallenged. The Government has made title to the Indian tribes, and when it has it has observed it. Patents have been issued to the tribes. We are undertaking right now to allot land in the Indian Territory among the Choctaws, Chickasaws, Seminoles, Creeks, and Cherokees. The land was given to these people, and the Government has insisted that every square inch of that land shall be given to those Indians. It is not sold to anybody else or opened to settlement or disposed of in any way, but is divided amongst those people equally and amongst themselves.

Mr. TILLMAN. What is the difference between the treaties we have made with the Chickasaws and the Choctaws and with the Indians on the Rosebud Reservation?



Mr. STEWART. It is very different.

Mr. TILLMAN. Just explain it.

Mr. STEWART. I will. The Choctaws and the Chickasaws were in different States, in Mississippi and down through that country, and it was desired to have them moved. They were under no obligations to move. They gave up what possessions they had there, and this land in the Indian Territory was given to them in a trade, a bargain.

Mr. JONES of Arkansas. By treaty we gave them the land.

Mr. STEWART. A solemn treaty.

Mr. JONES of Arkansas. We issued patents, and they own the land.

Mr. TILLMAN. A solemn treaty? Did not we make a solemn treaty with these Indians, or did we make an unsolemn treaty with the Indians on the Rosebud Reservation? What sort of a treaty was it?

Mr. GAMBLE. I will reply very briefly to the Senator. I meant to allude to that in my remarks yesterday. A treaty was made in 1868—I do not know that it is necessary to go back of that—whereby the Great Sioux Indians were confined to the western part of South Dakota; that is, the region west of the Missouri River. In that treaty it was provided:

And in addition thereto all existing reservations on the east bank of said river shall be, and the same is, set apart for the absolute and undisturbed use and occupation of the Indians herein named.

It granted to them under the treaty of 1868 absolute and undisturbed use and occupation.

Mr. TILLMAN. Is not that a title?

Mr. GAMBLE. I will follow that by a further suggestion. Then it comes to the treaty of 1889. That was

practically an act of Congress, when it was proposed by the Government to segregate the Great Sioux Nation, consisting, I presume, of 18,000 Indians, into different tribes, locating, I think, seven of them in different reservations in the State.

They were described by metes and bounds, the Rosebud Reservation in one place, the Standing Rock in another, the Cheyenne River in another, the Lower Brulé in another location, and the Crow Creek in another. Though the limits of the separate reservations were defined and there was a cession by them of about eight millions and a half of acres that were thrown open to public settlement, it is stated in the act of 1889, speaking of their separate reservations—

the lands described in each of the other separate reservations so created, and shall be held to confirm in the Indians entitled to receive rations at each of said separate reservations, respectively, to their separate and exclusive use and benefit, all the title and interest of every name and nature secured therein to the different bands of the Sioux Nation by said treaty of April 29, 1808.

It is further provided in this act of Congress that the surplus lands in each of these separate reservations may be treated for in regard to their cession when, in the judgment of the President of the United States, the surplus lands are unnecessary for the Indians. Last year a provision was placed upon the Indian appropriation bill authorizing the Secretary of the Interior at any time to negotiate with the separate Indian tribes for the cession of their surplus lands, and under that provision of law this negotiation was taken up. So this negotiation is not only in compliance with the law of last year, but it is in compliance with the law of 1889, wherein it is provided—



That at any time after lands have been allotted to all the Indians of any tribe as herein provided, or sooner, if in the opinion of the President it shall be for the best interest of said tribe, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase and release by said tribe, in conformity with the treaty or statute under which such reservation is held, of such portions of its reservation not allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress: *Provided, however,* That all lands adapted to agriculture, with or without irrigation.

I do not know that I need read the further provision. So, then, this was an act of Congress which became operative only when it was ratified by the Great Sioux Nation. They did ratify it under the provisions of the treaty of 1868 by three-fourths of the male members of the tribe. The proclamation was issued, I think, on February 10, 1900, proclaiming the ratification, and then this act became operative.

So it does not seem to me, Mr. President, that we can apply here the general provisions as to treatment with other Indian tribes, but we must be bound by this law and this treaty. These Indians have rights of property in these lands, not the fee title, to be sure, but certainly Congress can not by main force and power take possession of the lands and dispossess the Indians, except under the form prescribed in this treaty and law.

Mr. McCUMBER. May I ask the Senator a question and see if we can not follow that a step further?

What practical difference is there between a right to use and occupation perpetually and a fee title, so far as

the Government is concerned? When we, by a solemn obligation of Congress, in an enactment or a treaty which has been ratified, absolutely grant to these people the right to the exclusive use and occupation of territory without any limit whatever, have they not a title that is just as good as though they had a fee title as long as we have obligated the Government itself to give them that title and to protect them in it? That being the case, are we not absolutely at the mercy of every one of these Indian tribes that have reservations created by treaty to give them such a price as they may demand, or else break our own contract? Is not that true?

Mr. GAMBLE. I think that is true. It must be at a price mutually agreed upon between the parties under the stipulation of the law and the treaty. However, in further answer to the Senator from North Dakota, Congress having granted to these Indians the sole use and occupation of this territory perpetually, it is practically as good as a fee title unless the Indian title became extinguished, and then it would revert to the Government of the United States.

Mr. STEWART. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Nevada?

Mr. GAMBLE. I yield cheerfully to the Senator from Nevada.

Mr. STEWART. The use and occupation is only while they are in a tribal relation. We are proceeding to relieve them of that relation as fast as possible. In the Indian Territory we are breaking it up and giving them their land in severalty.

Mr. McCUMBER. May I interrupt the Senator right there? When we have once given them a tract of land as a tribe and guaranteed them the right to the occupation of that land as a tribe we have placed ourselves in a position

so that we can not break up their tribal relations unless we do it by a contract with them. They can still hold the land under their contract.

Mr. STEWART. In the first place, it lasts only during their tribal relation. I am sorry that we have so many contracts in favor of barbarism and cruelty. I believe that while they are our wards we must take care of them whether the relation is tribal or not, but we are not bound to pay more than the land is worth. We need not buy it unless we have a mind to do it.

Mr. McCUMBER. Yes; we need not buy it unless we have a mind to do it, but we are placed in this position. The States need to have the land opened to settlement. There are vast tracts that you forced upon those States years ago when you created these reservations before they had any representation in Congress. Now, we wish to have them opened up. You have placed us, however, at the mercy of these Indian tribes.

Mr. STEWART. I deny that.

Mr. McCUMBER. And we must make some kind of an arrangement.

Mr. STEWART. I deny that. If this land is necessary for settlement, the Government has a right to take it and condemn it for public use.

Mr. McCUMBER. If I may answer the Senator again, I deny the proposition that where the Government has said to a tribe of Indians, "In consideration of your releasing this territory I grant you certain other territory to hold perpetually," we have a right to place a limitation upon that law and take the land without an arrangement with the Indians.

Mr. STEWART. I deny that the title of the Indians is any higher than your title to your farm, and that can be condemned for public use.

Mr. CLARK of Wyoming. But can it be taken for the purpose of selling it to another?

Mr. McCUMBER. It may be condemned for public use, but when it is opened to settlement it is for private use and not public use. No court will ever hold that it is taken for public use under such circumstances.

Mr. STEWART. Opening the land to settlement is a public use. There is no doubt about it. If that is not a public use I should like to know what is. We must have settlement on the land, and I believe it is a public use. I do not believe that we are in the power of those Indians. If we are in their power and have to pay more than the land is worth I do not want to have any more treaties or enactments made.

Mr. SPOONER. Does the Senator say—

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Wisconsin?

Mr. STEWART. Certainly.

Mr. SPOONER. Does the Senator mean that if the Government wants to take 500,000 acres of land for free homes, in order to throw it open to settlement, the Government can condemn it?

Mr. STEWART. That is a different proposition.

Mr. TILLMAN. You are not an Indian.

Mr. STEWART. I am not an Indian. I am not a sham. I am a reality. This is a sham Indian that you are dealing with when you deal with an Indian tribe. If public policy requires land to be taken, whether it is 500,000 acres or any other quantity.

Mr. SPOONER. Would it be any more a public use to take it from the Senator from Nevada than to take it from an Indian tribe?

Mr. STEWART. Public policy might require it to be taken from a dedication to barbarism, where it is used for the purpose of pauperizing and barbarizing and destroying civilization, whereas it would not require it to be taken where it was used for purposes for civilization.



Public policy is in favor of civilization. These large reservations are opposed to civilization. Where they have existed there never has been any progress in civilization. We have the spectacle in the United States of the Indians dwindling away and diminishing in number, on account of disease and laziness and misery, where they are fed. How is it with the Indians elsewhere? See the public policy in Mexico. There is a population of 10,000,000, and nine million and a half are Indians. Was it good policy to take the land from them and allow them to become civilized? Up in British Columbia every Indian is at work. Is not that good public policy? If you leave the land to be held by savages you monopolize the land in favor of barbarism, which is contrary to public policy. We are not wholly in the power of these Indians or their friends, the speculators out there.

Mr. McCUMBER. Will the Senator allow me to ask him a question?

Mr. STEWART. Certainly.

Mr. McCUMBER. I make a clear distinction between this case and obtaining the original title of the Indians to lands by mere occupancy. They are merely our wards. We may take that land so far as any title by reason of original occupancy is concerned. But we have recognized them as people capable of making a contract and have entered into a contract with them. Thereby we have estopped ourselves from denying their power. When we give them a certain tract of land for occupation simply in consideration of something else we are then in an entirely different position with the Indians, and we must treat them the same as we would treat white men.

Mr. STEWART. Do you think it is good policy to dedicate to barbarism enough land for four or five States?

Mr. McCUMBER. No, I do not; but we have done it already.

Mr. STEWART. No, you have not done it. You have not reclaimed them by the public policy you have pursued. I do not believe that we are in their power, and I shall vote against buying the land. I protested against that in the committee, but the committee reported it here, and I am at liberty to oppose it unless committed to it in committee. I do not think the agreement ought to be ratified, because it proposes to pay more than the land is worth.

Mr. COCKRELL. I wish to ask the Senator in charge of the bill whether a fee title can not pass from the United States to an Indian nation or tribe without the issue of a patent?

Mr. McCUMBER. There is no question about it.

Mr. GAMBLE. I do not know that I understand the question.

Mr. COCKRELL. Can not a title of the United States pass from the United States to a party by a law or by a treaty which is ratified, without the issue of any patent?

Mr. GAMBLE. Yes; I should say so.

Mr. PLATT of Connecticut. If the United States made a treaty with Indians to give them a fee-simple title to some lands which the United States owned, there is no question but that title would pass without the formal document of a patent.

Mr. SPOONER. I should like to ask the Senator from Connecticut a question.

MR. PLATT of Connecticut. Perhaps I have gotten myself into more trouble than I thought I had. [Laughter.]

Mr. SPOONER. Of course, what the Senator says about an act passing fee is correct. But has the Senator any doubt that an act of Congress vesting a perpetual possessory title is not just as efficacious, as far as it goes?

Mr. PLATT of Connecticut. To convey that kind of a title?



Mr. SPOONER. Yes.

Mr. PLATT of Connecticut. Certainly.

Mr. SPOONER. Now, the argument of the Senator from Nevada—

Mr. RAWLINS. Will the Senator permit a query there?

Mr. SPOONER. Now I have gotten myself into trouble.  
[Laughter.]

Mr. RAWLINS. If we pass any sort of a title except temporarily, continuing as long as a status or a tribal condition exists is it not necessary to have a definite and ascertainable grantee. I put the question to the Senator from Wisconsin, How would the Government convey a title in fee simple to a tribe of Indians, the tribe being the grantee?

Mr. PLATT of Connecticut. A tribe will take

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business.

Mr. GAMBLE subsequently said: I ask unanimous consent that the bill in regard to the ratification of the agreement with the Indians of the Rosebud Reservation be taken up to-morrow morning immediately after the conclusion of the morning business.

The PRESIDENT pro tempore. The Senator from South Dakota asks unanimous consent that to-morrow morning, after the completion of the routine business, the bill which has just been laid aside may be considered. Is there objection?

Mr. COCKRELL. I hope the Senator will not make that request until the Senator from Connecticut [Mr. PLATT] is in his seat. It can be done any time as well as now.

Mr. GAMBLE. I will state in reply to the Senator from Missouri that I spoke to the Senator from Connecticut just before he left the Chamber, and he suggested that I make the request.

Mr. COCKRELL. All right.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

---

[35 Cong. Rec. 4963-4971 (1902)]

### AGREEMENT WITH INDIANS OF ROSEBUD RESERVATION.

The PRESIDENT pro tempore. The Chair lays before the Senate Bill 2992.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect.

The PRESIDENT pro tempore. The pending amendment is that offered by the Senator from Connecticut [Mr. PLATT]. Is the Senate ready for the question?

Mr. CULLOM. I hope the amendment will not be disposed of until the Senator from Connecticut comes in.

The PRESIDENT pro tempore. There is an amendment on the table offered by the Senator from Colorado [Mr. Teller].

Mr. TELLER. That is an independent amendment, and it may be voted on.

The PRESIDENT pro tempore. If there be no objection, the amendment offered by the Senator from Connecticut will be laid aside for the present, and the Chair will lay before the Senate the amendment offered by the Senator from Colorado. It will be read.

The SECRETARY. It is proposed to amend the amendment of Mr. PLATT of Connecticut by striking out all of line 25—

Mr. TELLER. That is not correct. I do not propose to amend the amendment of the Senator from Connecticut. I offer it as an independent amendment. It strikes out two words that his amendment proposes to strike out, but that does not make it any less an independent amendment. I have not the bill before me.

The PRESIDENT pro tempore. As the Senator sent it to the desk it is to amend the amendment of the Senator from Connecticut by striking out all of line 25, page 6—

Mr. TELLER. No, Mr. President, I did not send it to the desk; I just made a verbal statement. The clerks misunderstood it; that is all. The Senator from Connecticut is here now, and we may as well vote on his amendment first.

The PRESIDENT pro tempore. The Senator from Colorado moves to strike out two words that the Senator from Connecticut moves to strike out.

Mr. PLATT of Connecticut. What is the present condition?

The PRESIDENT pro tempore. The Senator from Connecticut is now here.

Mr. TELLER. I will withdraw my amendment for the time being, since it has gotten into that shape, and let the vote be taken first on the amendment of the Senator from Connecticut.

Mr. PLATT of Connecticut. Mr. President, I think the Senator from Missouri [Mr. COCKRELL] desires to be heard on my amendment; but as he is absent, I will, until he comes in, make some observations about the arguments which have been used against it and in favor of the passage of the bill as originally reported.

First, it is said that every case ought to stand on its own merits and the Government ought to have no policy about the matter whatever, by which I suppose it is intended that where a bargain has been made with the

Indians in which they have been paid less than the actual value of the lands to the settlers, we might require the settlers to make payment for the lands, because in those cases they are going to derive an advantage, but that where we have not paid any more than the lands are worth we ought to give them away. Now, that seems to be a very peculiar argument.

I know other Senators have claimed that no matter what we pay for the lands, we ought to give them away; but the Senator from Minnesota [Mr. CLAPP], the Senator from South Dakota [Mr. McCUMBER], and the Senator from Montana [Mr. CLARK] insist that every case ought to stand upon its own bottom and upon its own merits, and that except in cases where the settlers are going to derive some unusual advantage we ought not to charge them anything.

It seems to me that the Government must have a settled policy about this matter. It is perfectly apparent to Senators that if we make an exception in any case—, if we conclude that on the whole a very moderate price has been paid to the Indians and therefore we will give the lands away to the settlers—that will be the policy of the Government and of Congress. If we pass this bill giving these lands to settlers, there will be no more bills passed in which we charge the settlers for the lands upon which they settle. It does not require very acute perception to see that there will be the result. Neither does it require very acute perception to see that it is a most ingenious argument in favor of the passage of the bill.

We have agreed to pay the Indians \$2.50 an acre for these lands. Now, if we allow the settlers to take the lands for nothing, because that is a fair price, and that is the argument which has been made here, we shall not only follow that precedent in all bills hereafter for the opening to settlement of Indian reservations, but in the



cases where we have already required that the settlers shall make a payment which will reimburse the Government we shall release them from their obligation.

So the Senate might just as well understand that this is not a case which can be excepted out of a general policy. I think it safe to say that if this bill passes, giving to the settlers lands for which the Government pays \$2.50 an acre, every other bill for the opening of Indian reservations will give away the lands to the settlers, and in all those instances in which, by bills already passed, they have been required to make payment they will be released from their obligations.

With regard to these particular lands, if the Senate will indulge me for a moment, the Senator from Nevada [Mr. STEWART] says he thinks we paid a large price for them, and therefore he does not think we ought to give them away to settlers, having paid a large or perhaps an extravagant price for them, but if we have only paid what they were worth, then he thinks we ought to give them away to the settlers. I confess I can not see the force of that argument. But with reference to these particular lands, we have not overpaid for them upon the basis of what they are worth to the settlers. I think we have overpaid for them upon any basis upon which the Indian title ought to be estimated and appraised.

Of course, I do not know the value of these lands from personal observation, and few senators do. I know that they are greatly desired by settlers. I can only form an estimate as to whether the lands are worth what the Government has agreed to pay for them by the report the inspector who negotiated the agreement makes. He says he thinks it is a fair price, but he says also:

That he was greatly handicapped in the beginning by the fact that most of the Indians who favored a cession at all held the lands as an enormous

price—from \$7 to \$15 per acre; that only a very few expressed their willingness to accept as low as \$4 per acre, and this in case and all in one payment.

In trying to make these negotiations, I think the Indians estimated their lands by what they knew of the value of the surrounding lands. The inspector says:

That upon his arrival all the white men connected with the agency, as well as those of the surrounding country with whom he talked, held the lands in question as worth \$5 per acre.

Now, Mr. President, why should a white man connected with the agency and those in the surrounding country hold the lands as high as \$5 an acre if they are not worth that to settlers. We must all bear in mind the distinction between what we are to pay the Indians for an occupancy title and what the settlers think they are worth if they can get them.

It appeared that adjacent lands in Gregory County and in Hoyt County, Nebr., were selling for \$5 to \$10 per acre; that a syndicate of cattlemen in Sioux City, Iowa, expressed its willingness to pay \$4 per acre for the entire tract.

Does not that do away with the claim which is made here that these lands are not worth to the settlers what the Government has agreed to pay the Indians for them? I apprehend that the settlers who are going on these lands, if they are required to pay the Government \$2.50 an acre, will think they are lucky in getting lands that are worth \$5 an acre and perhaps more than that.

It is said that a portion of these lands are grazing lands and not particularly valuable for agricultural cultivation. I presume that that is partially true. I presume it is also true that the Indians may have selected for their allotments the best lands. But I believe it still remains



true that there are many agricultural lands which will be located upon by settlers. They are not going on the grazing lands to take 160 acres of grazing land. What they are after is the agricultural lands in this reservation. I think it will turn out to be true that if the Government charges them \$2.50 an acre, they, so far as they settle up this tract, will think they have got lands worth \$5 an acre; and that is what is at the bottom of all this pressure upon Congress. Mr. STEWART. Will the Senator from Connecticut allow me to call the conference report on the Indian appropriation bill?

Mr. PLATT of Connecticut. I will yield to the Senator.

#### AGREEMENT WITH INDIANS OF ROSEBUD RESERVATION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2992) to ratify an agreement with the Sioux Tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation to carry the same into effect.

Mr. PLATT of Connecticut. I do not care to make further observations at this time. Other senators wish to speak.

Mr. CLARK of Wyoming. Mr. President, I do not want to have this bill go to a vote without expressing in just a word or two my views in regard to the matters contained in the amendment offered by the Senator from Connecticut.

I am extremely sorry to differ from him on this matter, as I always am on any subject; but I believe that his amendment does not represent what has been the settled policy of this Government in dealing with the homes seekers of the Government. My belief is that the

policy of the Government for forty years has not been to sell its lands to anybody. My understanding of the land laws of the United States is that they have been conceived in that wisdom which gives every man who is willing to make a home upon the public domain and anchor himself to a permanent citizenship upon the public domain his home without money and without price. That is exactly what the bill proposes to do.

One of the reasons why I have given my allegiance to the Republican party, and I think one of the greatest acts ever placed upon the statute books by that or any other party, has been the homestead law, passed in 1862, under which the great Northwest has been settled up. I do not want to see any turning aside from that policy. I do not want to see any policy pursued that will result in eventually taking away the free homes upon the public domain and selling to whoever may have the money to purchase the remaining land.

It is urged that the public lands should be disposed to which reference to the man who will go and settle and make his home upon them and that they should not be used for the benefit of the speculator. That is exactly what the treaty is proposed and presented to us does. It is exactly what the amendment of the Senator from Connecticut will not do.

The Amendment proposed by the Senator from Colorado [Mr. TELLER], providing for an actual residence of five years upon the land, meets with my approval. The speculator is not going to live five years upon 160 acres of wild land for the purpose of getting a title to it. The speculator may perhaps have money enough to pay the \$2.50 an acre for it. I believe it is true that not one in a hundred of the men who are seeking homes upon the public domain, either in this Rosebud Agency land or elsewhere, has enough money to pay

\$2.50 an acre for the land. Time and time again have the homeseekers in the West and in the Northwest been compelled to mortgage everything they had to raise the \$14 and \$15 or \$16 necessary to pay the land-office fees for their homesteads.

Mr. PLATT of Connecticut. Can they mortgage it before they get a title to it?

Mr. CLARK of Wyoming. About all they have to mortgage is a canvas-covered wagon, a few chairs and bedding, and a milch cow, and \$14 is about all they can get on it. Time and time again, to my knowledge, they have done that in order to pay the land-office fees. I say we ought not to put any impediment in the way of these settlers.

Now, there is another misapprehension, and that is that bills of this sort for free homes are passed for the benefit of the people who live in that country. That is not true. The men who live in that country in some way or other, by scrubbing and scraping and economy and luck, and in spite of hard luck, having been there for some time, have become fastened. These homes are for the men we want to come in there with their families to settle up and develop the country. We want the settlers from Connecticut; we want the men from Iowa; we want the men from South Carolina to come there and build homes under the homestead laws. We want the settlers. The cry in the West to-day is more men and fewer steers, notwithstanding the price of beef. It is more men that we want, and we want them to come from all over this nation to build homes with us.

The Government gets back its money tenfold. Every man who puts his foot to stay upon 160 acres of land pays back tenfold to the Government all that it has cost.

The argument is used that these lands will cost the Government \$2.50 an acre in money. That is true. There

is not an acre of land under cultivation in this nation to-day that did not cost this people. The land in Connecticut cost this nation something. The land in Illinois cost this nation something. The land to the west of the Missouri has cost this nation something. It has not always been in \$2.50 pieces; it has not always been in dollar pieces; but it has been in something. It has been in blood. It has been in American Privation. It has been in something, and the Government has got its return a hundred times over.

I am not at all alarmed at the idea that our public domain will soon be all occupied and we shall not have anything more with which to pay for our agricultural colleges. God speed the day, not God speed the day when we shall not have our agricultural colleges properly sustained, but God speed the day when every acre of land all through our West and Northwest shall be taken up and be the homes of honest, toiling settlers, not given up to the birds of the air and beasts of the field, but when every acre and every rood of ground shall maintain its family. That is what the people of the Northwest want. We do not believe that the Government should enter into the policy of selling lands to reimburse itself or for a profit. It is turning back the entire principle of our public-land system.

The land system of the United States is different from the land system of other nations. It is modeled on the idea that the lands are for the good of the people—that they are not to be made a source of revenue to the Government. When the time comes, if it ever shall come, and I hope it is in the near future, that we have no public lands to dispose of to the settlers or anybody else, then we will see coming from the very States that you are populating under a free-homes proposition a wealth that will take care of all our agricultural colleges. As was said



by the Senator from Colorado [Mr. TELLER] yesterday, the States are ready to take it up whenever the General Government has to let go.

Now, Mr. President, much of the discussion of this bill has appeared to me to be irrelevant. I do not think the question of title cuts any figure at all. The only difference is between a perpetual occupancy and a title in fee. That is just the difference between the Pottawatomies and Wyandottes, as illustrated here upon the conference report a minute ago. The Pottawatomies have their title in fee simple, and they can sell it. The Wyandottes, exactly in the same position, have their title by occupancy, and they can not sell it. That is all. The Rosebud Indians have not their title in fee, and they can not sell it to whom they choose. Nobody can buy it except by treaty stipulations between the Government of the United States and those Indians. But once purchase it under the treaty stipulation, it is just as good as any fee-simple title that ever existed on the face of the earth, and the purchaser is just as much protected in his title. It carries everything that a fee-simple title possibly could carry.

Mr. President, I hope that the amendment of the Senator from Connecticut will not carry. He says this bill will be reversal of our land laws. My judgment is that if his amendment carries it will be a reversal, because it cuts under the free homes. It makes the sale of lands for a profit a settled policy of this nation; and I hope the time is far, far distant before we settle upon that policy.

Mr. McCUMBER. Mr. President, this amendment brings up the entire question that the Committee on Indian Affairs has been considering, the question of opening up Indian reservations and whether the Indians will sell their titles for reasonable compensation or not. That is directly in point in this question. It affects

directly the great policy of change in the matter of Indian reservations which is coming before Congress and must be acted upon in a very short time.

Mr. President, the very first thing that we must consider in a matter of this kind is the question of title that we have to deal with, the Indian title, the character of that title, and the rights of the Government to-day, after having made the many treaties that we have made in the past, having now been brought face to face with the rights of the Indians and the rights of the United States in reference to their land. There has been a great deal of refined reasoning on the part of some of those Senators who claim that we have a right to go into these reservations and open them up and pay the Indians what we think the lands are reasonably worth. We are considering that character of title, and I am justified, therefore, in making a few remarks concerning Indian titles in general in order to place ourselves in a position to meet the pending question.

What is the Indian title in the first instance? What is the title of ancient occupancy? What is its force? What is its character? What rights have we in lands occupied exclusively by the Indians where they have not been yet ceded by any act of Indian tribes? That is certainly a very inchoate right. It is a title that has not much value to it. I admit, as it has been stated here before, that we have a right, perhaps legally, though not morally, to compel the red men to pass beyond the limits of increasing civilization and cultivation of the soil; but when we have driven them to the last extremity, when we have made reservations for them, then we reach a different point in our argument.

Mr. President, in the matter of ancient occupancy the title is so light that we may have the right of possession and exclude the Indians from the possessory title of that



land. When, however, we have made a binding obligation with those Indians, in consideration of which they have surrendered that occupancy, which the United States courts have decided time and time again has a sufficient value to make it a legal consideration for cession; when we have received that and in consideration have given them a possessory title of other tracts of country, then we have bound the Government; and when we are in such a position, why not deal with those Indians as we deal with any civilized race? We have got to respect our contracts. We have got to buy those lands back for such price as we can agree upon, and we have no legal authority to open up a single reservation until we have done so.

Now, Mr. President, we have given those people a possessory title. My friend from Nevada [Mr. STEWART] said that we still have some kind of a right there; that theirs being a possessory title there is some way in which we may exclude them and by which, under a law similar to an eminent-domain law, we can compel them, for their own benefit and for the benefit of the United States, to yield up their lands for a fair consideration. I do not think that the Senator from Nevada has considered that very well as a legal proposition. When we open up these lands for public settlement we open them up for private use and not for a public purpose, and as we open them up for a private use we can not enforce the law of eminent domain.

Mr. RAWLINS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Utah?

Mr. McCUMBER. With pleasure.

Mr. RAWLINS. As I understand the proposition of the Senator, it is that we have no constitutional power to appropriate the lands in Indian reservations in the

exercise of the power of eminent domain, because it is not proposed to devote the lands to a public use. Is that right?

Mr. McCUMBER. That is my proposition, if we do not devote the land to a public use after having made a contract and agreement with the Indians, granting them the exclusive use and occupation of the premises.

Mr. RAWLINS. Mr. President, we have pending now in the Senate a bill known as a bill to provide a temporary government for the Philippine Islands, in which that very proposition is involved—namely, the condemnation of lands now held by a corporation, or a religious order, known as the friars, to become a part of the public domain and to be disposed of for private use. I suppose on that matter I shall have the support of the Senator from North Dakota and the Senator from Wisconsin that that is not proper legislation.

Mr. McCUMBER. Mr. President, I have listened with a great deal of pleasure to the expounded knowledge of the Senator from Utah relative to the Constitution of the United States being in effect in the Philippine Islands. There is a time and a place for that discussion. I suppose that the three days' discourse by the learned Senator from Utah has been sufficient to fix his own mind to a certainty as to the effect of our Constitution in the Philippine Islands, and hence I think it would be utterly useless for me to argue that question with him now upon the pending measure.

Mr. RAWLINS. Will the senator permit me further?

The PRESIDENT pro tempore. Does the Senator from North Dakota Yield?

Mr. McCUMBER. Certainly; with pleasure.

Mr. RAWLINS. Mr. President, I did not desire to invite the Senator's attention to the Philippine question upon this measure, but only to the legal proposition involved.

As I now understand the Senator's answer to the question I propounded, it is that we have the Constitution applicable to South Dakota and have no Constitution applicable to the Philippine Islands, and therefore in the Philippine Islands we can take property, in the exercise of the power of eminent domain, and devote it to private use, which we can not do in the United States.

Mr. McCUMBER. Mr. President, I have stated nothing of the kind. I have simply declined to argue that question, which has been discussed so fully for three years, and which requires and entirely separate discussion. We have a Constitution of the United States, and there is a State constitution of the State of South Dakota. We have not the United States Constitution effective in all of its parts in the Philippine Islands. When we received the Philippine Islands we received them in the condition in which they then existed, with the land subject to the laws that were in existence at the time we received them, and we have the power to make laws now relatively to the disposition of those lands. Congress undoubtedly will act justly and fairly in that matter, and I am perfectly satisfied to leave that question with Congress in the final enactment of a bill that will be before us.

But, Mr. President, going back to the question involved in this measure, the right of South Dakota and the right of the United States to those Indian lands, the position that I wish to state and make clear is this, that to a certain extent, by acts of Congress, enacted in the fifties and sixties, we have placed ourselves in a position so that the State is, to a certain extent, subject to the will of the Indians there in reference to whether or not they will sell their lands; that we are in their power to a certain extent, and to an extent that binds the Government. We can not go in and take those lands from them.

I believe, Mr. President, and I believe firmly, that the United States as a Government have no right to place a stumbling-block in the progress of any State in the Union, and if they have done so in the past through inadvertence, the first duty of the Government is to remove that stumbling-block from the progress of the State.

If we take one-third or one-fourth of the State of South Dakota and convert it into an Indian reservation and segregating the good lands there so that you can not get the requisite population in the State of South Dakota without making a contract which will be onerous to the Government, then I claim that it is the duty of the Government to relieve the State of that condition. If by your own act we have in the past placed that obstacle in the progress of the State, it is our duty, even though we are compelled to pay more than a fair and reasonable compensation, to remove it. Whether those lands are worth \$2.50 an acre, or whether they are worth \$10 an acre, they are a part of the public property of the State, and the State has a right to the use of those lands for the benefit of its inhabitants, and it has a right to ask Congress to make an agreement with those Indians, so that the lands may be utilized, and will themselves make a part of the wealth of the great State of South Dakota.

Have we done this, Mr. President, in this particular bill? It has been intimated that we have paid a high price for these lands. On a whole, I believe that we have purchased them for a reasonable price. Two dollars and a half an acre is not an unreasonable price for all of that land taken together, for we must remember that out of the 520,000 acres, about one-fifth of it, 205,000 acres, of the very best of this land, has been turned over to those Indians. That portion which the Indians have taken, that portion along the streams, that portion which has water



facilities, that portion which is the richest for agricultural products, that which is the best for grazing, and which is probably worth two or three times as much as that which is 30 or 40 miles from the streams, the Government itself has taken and given it to those Indians.

If you will take that at five or six or seven dollars an acre and estimate the value of the balance of it, you will find on the whole that the other will only be worth about 60 or 70 cents an acre. So to charge the settlers, the new men who are to go into that country, for the land that the Government has bought from the Indians, after giving them the cream of all the lands in that reservation, is not honest, is not just. It is perfectly right in some instances, Mr. President, that the settlers should be required to pay a fair consideration for the land.

I will compare this with the condition in North Dakota of the Devils Lake Reservation. There were opened up a reservation; we paid \$3.90 an acre for the land, and we are charging the settlers exactly the same price. I made no objection, nor did my colleague, to that bill upon the floor of the Senate. Why? Because we knew that for every quarter section of land there is then there will be 100 persons ready to take. We know also that it is worth from six to eight or ten dollars an acre. So if the Government charges \$3.90 an acre for it the settler can not complain if he gets land that is worth in the neighborhood of six or eight dollars an acre.

The conditions are not the same as those described by the Senator from Idaho. Fifty years ago settlement proceeded two, three, four, or even a thousand miles from where there were railroad facilities, but to-day our railroads go ahead of the settlements. We have no such conditions as existed fifty years ago. We have no such privations on the part of those forerunners of civilization in our own new country.

In our Devils Lake country the reservation is surrounded with nice towns, with good cultivated farms, with all of the luxuries near at hand, so that the man who goes there can get a home and he will get a good one, by paying \$3.90 an acre for the land.

That is not true down on this reservation in South Dakota, I believe that after you have taken out the 105,000 acres for the benefit of the Indians, which you have given to them, the balance of the land is not worth \$2.50 an acre, although the reservations taken as a whole, is probably worth more than that sum.

Mr. President, our desire is to open up these reservations. How are you going to open them up? How are you going to get the benefits that you are expecting to get in the civilizing of the Indians by placing white settlers among them, unless you place the land at such a price that settlers will take it up? Land that is not worth \$2 or \$1.25 an acre probably is not worth settling on. In order to get those settlers you have to go to take the land which you have segregated, the poorest portion, which you have not presented to the Indians there and place it at such a price, at least that white settlers can afford to go in and take it. If it is only pasture land, if it is only grazing land, every Senator knows that land is not worth \$2.50 an acre for grazing purposes alone.

But that is not all, Mr. President, Senators seems to think we are throwing away all this money that we are paying to the Indians—\$2.50 an acre or five or ten dollars an acre—when really it is going into the Indian fund for the support of the Indians. We are supporting them from day to day, and we are taxing ourselves to do so. Therefore what difference does it make whether we buy their land at \$5 an acre, which, we will say, is worth \$2.50 an acre, and give them the benefit of it by paying the same money out to them, or whether we take it out



of the Treasury of the United States and pay it for the benefit of the Indians?

Mr. President, I say, to support my proposition, that we should open up this reservation, no matter what we may have to pay within the line of reason.

Mr. TILLMAN. Mr. President, the Senator is making some statements that do not seem to be in accordance with the provisions of the bill: at least I do not understand it so. The Senator speaks of this money that is to go into the Indian Fund. If he will look at page 5, section 2, of the bill he will see this provision:

That in accordance with the provisions of articles 2 and 3 of said agreement the sums of \$250,000, for the purchase of stock cattle, and \$158,000, as the first of five annual installments to be paid said Indians in cash.

The money is to be paid to the Indians themselves, as I understand it, and you are going to set it apart to be used for their benefit hereafter.

Mr. McCUMBER. Mr. President, I was speaking of the provision relating to the opening of Indian reservations in general in my last remarks, and not specifically upon this bill. However, it makes but very little difference whether you say you place it into a fund and then pay it out, or whether you pay it out in the first instance to the Indians. In either event the Indians gets the benefit of these funds; and if we pay him this way, there is so much less that comes out of the Treasury for his support; and we are bound to support the Indians.

Mr. TILLMAN. Another question, Mr. President, if the Senator will allow me.

Mr. McCUMBER. Certainly.

Mr. TILLMAN. Do I understand this block of 416,000 acres of land is scattered about: that the Indians are all mixed in, through, and around it, and that they have had

the pick and choice of this whole Indian reservation, and the remainder of the land is only what they do not want?

Mr. McCUMBER. That is correct. The map, which was exhibited by the Senator from South Dakota [Mr. GAMBLE], showed the location of the Indian allotments. They followed along the streams and the branches of those streams, of course naturally taking the best land there was in the entire reservation.

Mr. TILLMAN. Then, Mr. President, I notice here on page 6, beginning in line 17, this provision:

That the price of said lands shall be \$2.50 per acre: but settlers under the homestead law, who shall reside upon and cultivate the land entered in good faith for the period required by existing law, shall be entitled to a patent for the lands so entered upon the payment to the local land officers of the usual and customary fee and commissions.

This provides for two methods of disposing of these lands, as I understand it, one by homestead and the other by sale, and whatever you sell is to be sold at \$2.50 an acre. Is that it?

Mr. McCUMBER. That is not right. The Senator must remember that we are now discussing the amendment of the Senator from Connecticut [Mr. PLATT].

Mr. TILLMAN. No: I am discussing the bill. I want to know just how you propose to dispose of these lands. It is proposed that they shall be subject to homestead entry only. That is the amendment, I think, of the Senator from Colorado [Mr. TELLER].

Mr. TELLER. No.

Mr. TILLMAN. The Senator said something about striking out the right to commute. If he does not propose that the homesteaders shall get the land, then he proposes that it shall be obtained by purchase at \$2.50 and acre and sold to any cattle company that chooses to come in

and pay that sum, or else I do not understand what the Senator means.

Mr. TELLER. Will the Senator from North Dakota allow me a moment?

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Colorado.

Mr. McCUMBER. With pleasure.

Mr. TELLER. Here is a provision on page 6 of the bill, beginning in line 16:

*And provided further, That the price of said lands shall be \$2.50 per acre—*

Then there is the free-homestead provision, from line 18 down to line 25, inclusive, as follows:

but settlers under the homestead law, who shall reside upon and cultivate the land entered in good faith for the period required by existing law, shall be entitled to a patent for the lands so entered upon the payment to the local land officers of the usual and customary fee and commissions, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry.

Then follows a provision for commuting. The Senator from Connecticut proposes to strike out all about free homesteads. My amendment is to strike out all about commuting. If we defeat the amendment of the Senator from Connecticut it will be necessary, to make the language of the bill harmonious with the idea of free ownership, to strike out the words:

That the price of said lands shall be \$2.50 per acre.

Mr. McCUMBER. I understand that means when it is commuted.

Mr. TELLER. Yes; that is what it means; but if we do not allow them to commute at all, then that language

must go out.

Mr. McCUMBER. Then the settlers will get the land free.

Mr. TELLER. Then the settlers will have free homesteads, and there will be no opportunity at all for speculators to get in.

Mr. McCUMBER. I do not understand that any of this land is going to be put on the market at \$2.50 an acre.

Mr. TELLER. No; but the \$2.50 an acre refers to commutations.

Mr. McCUMBER. Certainly.

Mr. TILLMAN. Will the Senator permit me?

Mr. McCUMBER. Certainly.

Mr. TILLMAN. Referring to the top of page 6, I find a provision that the lands—

shall be opened to settlement and entry by proclamation of the President, which proclaims shall prescribe the manner in which these lands may be settled upon.

If it is found that the restrictions on the conditions of settlement will require the usual plan, whatever it is, to get a title, keep the people from going there, and the President then says, "Well, as I can not sell the land to homesteaders I will sell it to the cattle companies or to whoever else wants to use it for grazing purposes," what is going to prevent that being done? This law will not.

Mr. McCUMBER. Is the Senator through?

Mr. TILLMAN. I am considerably muddled, Mr. President, and I will wait until the Senator gets through to see if he throws any additional light upon these dark questions, and I may say something when he finishes.

Mr. McCUMBER. I presume that the land will be opened up by proclamation, the same as any other public domain is opened up for general settlement, and that it may be settled upon under the homestead laws. If a



person desires to commute, as the bill now stands he must pay \$2.50 an acre. If he lives upon the land for five years he may receive it from the Government absolutely free. The amendment of the Senator from Connecticut is to compel, as I understand, the payment of \$2.50 an acre in every instance.

Mr. President, I think what the Senator from South Carolina is driving at is as to the method of determining who may settle upon these lands or who may hold them. I simply judge that from the criticism he made yesterday, I believe, concerning the method in which settlers were allowed to take up lands in Oklahoma and in other places. His criticism, as I remember it, was against drawing lots. I know the Senator from South Carolina is one who jealously and zealously guards the interests of the poor man, and I want to place before him a condition such as we shall have in the Devils Lake Agency at the time it is opened for public settlement. I say there will be a hundred men for every quarter section. What is the present method? The present method is that a man has to be on the border of the reservation, and the moment he gets word that it is open he has his horses hitched to his wagon, he has a load of lumber on that wagon, and he starts on a five, twenty, and a hundred mile race to get to the particular quarter section, and to get there before anyone else does. The man who has the best horses and the most of them, who can put more of them into a single wagon, is certain to get into the reservation in the quickest time, and to get onto that quarter section sooner than the other individual possibly can.

With all these hundreds of individuals, how are you going to determine which one shall have the preference right? I believe that the system of drawing of lots that was adopted in the settlement of some of the country a short while ago proved the most satisfactory of anything

we have ever attempted; and if the Senator from South Carolina can suggest a better one, one that will be more economical, one that will be better and more just to the citizen who is so poor that he can not go into that race with a blooded horse and get onto a quarter section of land. I know the Interior Department will be very glad to hear from the Senator in reference to the matter, because it is a question that must be solved.

Mr. TILLMAN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from South Carolina?

Mr. McCUMBER. With great pleasure.

Mr. TILLMAN. The point that presses on me with most force is how to get around the man who is speculating in these lands, and who is trying to get a quarter section by gift.

Mr. McCUMBER. He can not get a quarter section by gift unless he lives on it for five years; and he would not be much of a speculator then.

Mr. TILLMAN. Let me ask the Senator, Is the requirement that a man must live on the land in person strictly enforced? If he goes there, sets up occupancy, digs a well, runs a fence, and once in a while goes to see it, is not that about the way it runs?

Mr. McCUMBER. If the Senator ever got into a contest for public land between two persons claiming it, and went through these departments he would find that the law of residence was very strictly enforced, that actual occupation was required, and that nothing else will take its place.

Mr. TILLMAN. Is that the rule?

Mr. McCUMBER. That is the rule.

Mr. TILLMAN. Is it not a rule that is often relaxed?

Mr. McCUMBER. I have never known of its being relaxed in case of a contest.



Mr. SPOONER. How is it if a man is unable to occupy his homestead by reason of sickness?

Mr. McCUMBER. If, in case of sickness, a person has to go away, that does not relax the law at all.

Mr. TILLMAN. So that under the homestead law actual occupancy and use of the land is necessary before a patent can be obtained?

Mr. McCUMBER. Certainly; and the settler has not only got to show that he has actually occupied the land, if a married man, with his family for five continuous years, but he has also to show the character of his improvements and the amount and value of them, so that the Department may see that he has acted in absolute good faith and that he was not acting for the purposes of speculation; and he must show that not only by his own testimony, but by the testimony of two other witnesses.

Mr. TILLMAN. Now, as I understand, the struggle of the hundred for one quarter section, who, the Senator says, will be on the border when the Devils Lake Reservation is opened, will resolve itself into the swiftness with which any given man can get to a given quarter section, set up his pegs, and do something which will give him a right to claim the land.

Mr. McCUMBER. Yes; unless some arrangement is made by the Interior Department similar to the arrangement that was made in opening up some of the reservations in Oklahoma Territory.

Mr. TILLMAN. And in that case we have another lottery. It is the lottery I am opposed to. How are you going to find out whether a claimant of any given quarter section is a bona fide settler or not; whether he is merely a speculator, and is only doing enough to get title to the land, and then sell it at a profit?

Mr. McCUMBER. The Senator evidently does not thoroughly understand the method of settling upon Government land.

Mr. TILLMAN. I do not, and I am trying to get some light.

Mr. McCUMBER. As I have before stated, the determination of whether the settler is acting in good faith or for speculative purposes is that he must hold the land for the period of five years unless he commutes, and even in the case of commutation he must show the absolute satisfaction of the Department by his own oath and that of witnesses and by corroborating circumstances that he did not take up this land for speculative purposes; that he had taken it up for a home and for nothing else, and that he had not attempted to sell and does not intend to sell it. I think that ought to make that part clear to the Senator.

Mr. TILLMAN. In this instance in Oklahoma with which I happened to come in contact last year by accident I discovered that there were men on the border there at the agency where the drawing was held, and that one out of six or seven got a prize, and the others did not. I knew of cases in which men were there with their applications for one of the homesteads who had no business applying for a homestead, because they never intended to go there and live; and how many of those men who drew the lots by lottery are not on the lands, but have commuted and sold out at a profit.

Mr. McCUMBER. That may be possible. I know nothing about it.

Before closing, I wish to say one word in reference to the position taken by the Senator from Connecticut [Mr. PLATT]. I agree with him entirely in the proposition that it is unjust to the Government to get any bill through here under a false pretense. We have opened up a number of reservations. The measures got the requisite number of votes upon the assumption and the pledge that the money which the Government had to spend in

purchasing the right of the Indians to the reservation should be paid back to the Government as soon as the lands were sold. Then immediately after that became a law and the lands were settled upon, then we would have petitions to make them free homes. I myself will not vote for any more legislation of that kind. It seems to me when we have purchased the reservations with that understanding, with that character of agreement, we should carry it out; but I will not sustain a proposition that we shall keep lands from being settled upon by the public simply because we have been compelled to pay for some of them a higher price than they are actually worth.

Mr. COCKRELL. Mr. President, from the remarks which have been made in regard to this bill one would suppose that there were a large number of men with their wives and children settled upon this Indian reservation waiting to make it their home, and that those of us who are opposing the measure are attempting to take from them—citizens of South Dakota—their right to free homes. This is an entire misconception. There is not one solitary homesteader upon the Rosebud Reservation. If he is there, he is there in violation of law, without a right on earth. It is to-day an Indian reservation, and the title is in the Indians. It is not the public domain of the United States. It never has been the public domain of the United States, because the Indians have the proprietary and possessory right to hold it indefinitely—forever. It is just as good as a fee-simple title.

The Senator spoke of Congress putting obstructions in the way of the advancement and development of South Dakota. These Indian reservations existed before Dakota existed. Those who inhabit South Dakota went there knowing of these reservations.

Mr. McCUMBER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from North Dakota?

Mr. COCKRELL. With pleasure.

Mr. McCUMBER. I merely want to correct the Senator in one respect. Many Indians from Minnesota and other places were taken into South Dakota and placed in a reservation there. So the reservation did not exist even for the Dakota Indians until we took the Sioux and the Chippewas of Minnesota and placed them in North and South Dakota.

Mr. COCKRELL. When was that done? It was done before it became a State in the Union.

Mr. McCUMBER. In 1851, 1852, and 1863.

Mr. COCKRELL. It was before it was a State. All these reservations were in possession of the Indians before the States existed as States in this Union. Congress is throwing no obstructions in their way, but we are trying to do justice to the citizens of the United States as well as to those who may want to make their homes there.

There are two sides to this question, and there are two parties interested in it. One is composed of the taxpayers of the United States, who have to bear the burden, and the other the favored few who by chance and by lot may secure a right to locate upon these lands.

There are no homesteaders there now. There is no man with his wife and babies and the old prairie schooner which has been referred to traveling there to make a home. There is not a particle of that. There is no right to homestead there. It is not public domain. The only question is, How shall Congress extinguish the Indian title to the lands and make the lands not public domain, but private-purchase property, to be disposed of by the United States as it thinks right and just and honorable?

There is no public domain about it. The question is, How shall we acquire title to the lands? The Indians have title to them. Shall we ratify this treaty? Shall we buy these lands, and then what shall we do with them? The



treaty says we shall pay the Indians. What is that? Buying private lands, paying the owner; and then what are we asked to do with them? To donate them to some persons, we know not who, living we know not where, who may by virtue of a lottery get a right to go on the land.

Mr. WARREN. May I ask the Senator from Missouri a question?

Mr. COCKRELL. Certainly.

Mr. WARREN. As a matter of fact, has not all our public domain been purchased in one way or another, and has it not cost the Government something?

Mr. COCKRELL. Not in this way.

Mr. WARREN. It cost a small sum per acre, but it cost the Government money.

Mr. COCKRELL. None of it was acquired in this way—not one foot of it. It was acquired for political and territorial reasons, in large quantities, unsettled and uninhabited, a wilderness, subject to the possessory and proprietary right of the Indians who were scattered here and there over it.

Mr. WARREN. Nevertheless, I will ask the Senator if it does not stand of record that while it may have cost but 10 or 15 or 20 cents an acre, all the public land open to homestead to-day is that which has in some way been purchased and for which something has been paid by the United States Government? It is simply a matter of difference in price as I look at it.

Mr. COCKRELL. I do not look at it in that light. It was not purchased as a part of the public domain. We did not pay the inhabitants of the Louisiana purchase a nickel of money for anything they had in it. It was a political transaction between the United States and France. We bought the land there. The people who were on the land and who had title to the land continued to have title to it. The balance was public domain.

Now, here are individuals, a band of individuals, with a clear title to the land, and this bill proposes to buy that land from them and pay the money to them. If we have the right to do that, and then to turn around and donate the land to those who may by lottery get a right to settle upon it, we have the same right to go into the State of Arkansas, the State of Missouri or any other State of this Union and buy land from individuals, citizens, and open it up for free homes. No man can gainsay the proposition. One is just as fair and honest as the other. They are upon an equal footing. That is what this bill proposes to do; nothing more, nothing less, nothing else.

I say it is not just; it is not right; it is burdening the taxpayers of this country with that which should not be imposed upon them. It is not for the poor man, not for the man struggling with his wife and babies for a home, but for the man worth millions, perchance, who may have a technical right to make a homestead and may be fortunate enough to draw a prize in the lottery. That is the kind of people we are appealed to to benefit and bless—men who have homes, and yet have never exhausted their homestead rights. Any of them can go there, I care not who it is, from any part of the United States, and, possessing the homestead right, get a free home, no matter what his property is.

Mr. CLARK of Wyoming. May I ask the Senator from Missouri a question?

Mr. COCKRELL. Certainly.

Mr. CLARK of Wyoming. I know the Senator intends to be exactly correct and accurate, but is it not a fact that nobody can enter upon these lands under the proposed amendment who has a homestead elsewhere; that he must comply with the five years' residence upon the land; that he must absolutely comply with the homestead law, and if he has a large amount of land



elsewhere, the homestead law absolutely prohibits him from taking advantage of this law?

Mr. COCKRELL. Any man who has the right to a homestead would have the right to go into this drawing.

Mr. CLARK of Wyoming. But if he goes into the drawing he goes into it subject—

Mr. COCKRELL. As a matter of course.

Mr. CLARK of Wyoming. Just one moment. But if he goes into the drawing he goes into it subject to the regulations and the law of homesteads, and is it not a little far-fetched to assume that a millionaire will spend five years upon the Dakota prairies in order to get a hundred and sixty acres of land worth \$2.50 an acre?

Mr. COCKRELL. Anyone having his homestead right unexhausted has a right to take his chance in getting a claim. The terms upon which he will get it after he has acquired that right is a different matter. He must comply with the law before he can get a patent. There is no question about that. But I say this measure is not for the benefit of persons who have a right now. It is not for the benefit of citizens of South Dakota that this bill is pending. Not at all.

We recently opened the Kiowa, Comanche, and Wichita land in the Indian Territory. I wish Senators to pay attention to this: That land was divided into 13,000 tracts of a hundred and sixty acres each. There was a registration called for of those who were eligible to make a selection and 165,416 people registered, claiming the 13,000 acres, over a hundred applicants for every tract of land. Now, does anybody suppose those were poor, struggling young men with their wives and babies who were there ready to make homes upon that land? How did they settle the contest? A hundred and sixty-five thousand applicants and 13,000 prizes. There was but one way—a lottery, pure and simple. Tickets were drawn

and the wheel of fortune started on its round and the lucky ones, 13,000, had the right to go upon the land.

The Senators from South Dakota and from other States are here reading and urging the passage of this bill. Probably a hundred thousand people will go there and apply for this land, and in the lottery the land will be divided into how many tracts—

Mr. TILLMAN. About twenty-four hundred.

Mr. COCKRELL. About twenty-four.

Mr. TILLMAN. Prizes.

Mr. COCKRELL. About twenty-four hundred prizes will be drawn, and these twenty-four hundred—Infinite Wisdom alone knows who they will be—are the objects of charity and sympathy, in whose behalf appeals are made to the Senate for the passage of this bill.

Senators, it is not right to pass it, because the bill is not right. I am as sympathetic as any man in the world, and no man has a warmer sympathy for the young man who is struggling in life to get a home for his wife and children, but I am not willing to tax the millions of young men with wives and children starting in life for the purpose of giving free homes to a few people—twenty-four hundred—who may be fortunate in the lottery. That is all there is in this bill. Shall we tax the struggling man to give twenty-four hundred men the chance of drawing a prize in a lottery? I can not see that it is just or right.

Now, it is claimed that we are reversing the policy of this Government; that it has always been the policy of this Government to give free homes. When did that policy originate? When was it the policy? Was it the policy when the pioneers from the Eastern States crossed the Alleghanies and went into the bloody land of Kentucky, or into Ohio, or Indiana, or Illinois? Not a bit of it. At first the Government charged \$2.50 an acre for the public land, and the people who went on them were pioneers.

They went there with their trusty rifles and ammunition. They went there to hew a home out in the wilderness and to drive back the Indians. They took all the chances, and yet they had to pay \$2.50 an acre for their land.

Finally the price was reduced to a dollar and 25 cents an acre. Practically all the lands in Indiana and Illinois were disposed of at a dollar and a quarter an acre. The settlers paid the money into the Treasury. The people of the United States have received the benefit of it. In Missouri it was largely the same way. In Iowa it was largely the same way. Nine-tenths of the people there had to pay for their homes at a dollar and 25 cents an acre, until the graduated law of 1853-54, which reduced the price according to the number of years the land had been subject to entry, reducing it down as low as 25 cents an acre or less.

Mr. President, when did free homes arise? In 1862, for the first time in the history of this Government, the homestead law was enacted. It had been pending in Congress since the days of Mr. Benton, who had advocated it early in his career, and yet it was never enacted into law until 1862. There were reasons for it then. There were political reasons for it then. There were just reasons for it then. Our country was then engaged in the most fearful civil strife which ever paralyzed the energies of any great nation.

Mr. TELLER. Will the Senator from Missouri allow me to make a suggestion to him? Before the war, when I suppose nobody expected a war, Congress passed a free-homestead act, and it was vetoed by the President.

Mr. COCKRELL. It was not a law.

Mr. TELLER. No; it was not a law, but it was the Congressional mind and intention to have free homes.

Mr. COCKRELL. Now, in that struggle we had enlisted, in the Union Army thousands upon thousands

of men, many of whom had come from foreign lands and had no homes here. They had rendered their adopted country a great service. We passed this bill giving the right to the soldier to go and homestead the land and count his service as a part of the five years. It was a generous act, a just act, a liberal act upon the part of the Government. It induced many thousands of foreigners to become citizens and to go upon the lands and make their homes; and they have been doing it since.

Then we had millions of acres of tillable land, arable land, with all the climatic conditions necessary for supporting a population and developing the agricultural resources of the country. We had them in abundance; we had public lands in Missouri; we had public lands in Iowa. Lands were not scarce; they were abundant, and in justice, and in right, and in munificence this Government passed the homestead law. It was right then.

If we had the same condition, it would be right to-day. Nobody ever dreamed that that munificent law would be perverted to the idea that this Government has a right to go and buy private land at \$2.50 or \$5 an acre and then turn around and call it public domain. No, Mr. President, there was never any such contemplation.

This is not public domain in the strict or correct sense of the word. We would have the same right to go into Iowa, or into Minnesota, or into any other State of this Union and buy private lands, and call them public lands, and make them a part of the public domain, and give them away as homes to people as we have to go and buy land from the Indians and do it. There is no justice in this.

But from the arguments it would seem that the Government had already established a policy of making free homes out of Indian reservations. Let us see when the free-homes law was passed. The free-homes law in



regard to Indian land was passed May 17, 1900. Was it a general law? Was it a law for the future or was it a law for special cases which then existed? Senators who were then here will remember that upon the opening of the lands in Oklahoma and that part of the country thousands of people flocked there. There was a drought one or two seasons in succession. The people failed to raise crops. They had promised to pay for the land. Congress was called upon to extend the time of payment. It was extended.

Still appeals were being made; sympathy was aroused; another extension of time was given by Congress for the payment of the purchase money for the land. The sympathy of the people was appealed to. The forlorn condition of the settlers was painted in grewsome colors, and we were asked to let them have their homes. They were there; they were in debt; they could not pay the price the Government was exacting, and out of sympathy and because of these appeals a law was passed, not for the future, but for these cases of supposed suffering. I will read it.

That all settlers under the homestead laws of the United States upon the agricultural public lands, which have already been opened to settlement, acquired prior to the passage of this act—

“Which have already been opened to settlement, acquired prior to the passage of this act”—

by treaty or agreement from the various Indian tribes, who have resided or shall hereafter reside upon the tract entered in good faith for the period required by existing law, shall be entitled to a patent for the land so entered upon the payment to the local land officers of the usual and customary fees, and no other or further charge of any kind whatsoever shall be required from such settler to

entitle him to a patent for the land covered by his entry: *Provided*, That the right to commute any such entry and pay for said lands in the option of any such settler and in the time and at the prices now fixed by existing laws shall remain in full force and effect.

Mr. TILLMAN. Mr. President—

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Missouri yield to the Senator from South Carolina?

Mr. COCKRELL. Certainly.

Mr. TILLMAN. I will remind the Senator also that in the appeals made to us here it was stated that unless we did grant that relief by giving these homes, the capitalists who had loaned money to help build houses and improve the holdings would absorb and gobble up the whole business, and it was to prevent the absorption by capitalists of those homesteads that we put that bill through here.

Mr. COCKRELL. I thank the Senator from South Carolina for his suggestion. Everyone remembers that we were told they were going to be sold out under deeds of trust, and the only salvation was a donation of the land and free homes. That bill was passed through sympathy. If this bill is passed it will be by sympathy. It will not be passed upon the broad basis of equal and exact justice to all and special favors to none. It will be a law of favoritism, pure and simple, a law of gratuity to twenty-four hundred people who may in a lottery be the successful drawers of prizes for this land.

Therefore, Mr. President, under no circumstances can I vote for the provision that is now in the bill.

Mr. CLARK of Wyoming. Mr. President, we might relieve the situation in the question of the taxation of the old States for the benefit of the new if the older States



would return a small part of the \$28,000,000 which the Government received from the public lands a great many years ago and loaned to the States subject to call, which has never been returned, nor will it ever be returned.

Mr. TILLMAN. Mr. President, I hope the Senator who has just spoken does not lay claim to any money the United States has received for its own property before any State which was created later had any existence.

Mr. CLARK of Wyoming. No; this is what I mean to say: Complaint is made that taxation is to be imposed upon the people of the whole United States to pay for this land in buying it from the Indians when the only beneficiaries will be the 1,300 or 1,400 people. I say we can relieve that situation and prevent the tax from being levied if the older States, who have received from the Government loans on the money heretofore received from the sale of the public lands of the Government to the amount of \$28,000,000, will turn back into the Treasury about \$1,000,000 of that sum and thereby save those taxes.

Mr. TILLMAN. If that is the programme, I suppose some one will introduce a bill to require those loans to be returned.

Mr. CLARK of Wyoming. No; that is not the question. The question is simply this: It comes with bad taste from those States which claim that the buying of this land for \$1,000,000 of public money works a hardship when they have already in their coffers \$28,000,000 of the Government's money which was loaned to those States and never has been returned.

Mr. TILLMAN. But I do not think—

Mr. CLARK of Wyoming. Nobody is questioning the right of the States to keep it, and nobody will. It is simply an illustration.

Mr. TILLMAN. The illustration does not seem to illustrate, for the simple reason that those older States at

that time were the United States. They divided among themselves their own property, and the Government reserved the right to call for the loan in an emergency, when the States would respond.

Mr. CLARK of Wyoming. I do not think the Senator fully understands the loan of which I was speaking.

Mr. TILLMAN. I will be very glad if the Senator will enlighten the ignorance of the Senator from South Carolina.

Mr. CLARK of Wyoming. The Senator from Wyoming does not assume any ignorance on the part of the Senator from South Carolina.

Mr. TILLMAN. He only asserts it.

Mr. CLARK of Wyoming. I am speaking of only this one particular thing.

Mr. PLATT of Connecticut. Mr. President, I regret that the Senator from Wyoming has introduced the subject to which he has just alluded. There is no sectionalism about this measure. There is no question in it as between the older States and the newer States. I think the new States have been pretty well dealt with by the older States. We had in every new State great numbers of acres of public land, and when they were made States we have given it to them as a free gift. If you come and consider the question as to whether the new States or the old States have derived the most advantage from the public lands, the benefit is all, I think, in favor of the new States. In this very bill it is proposed to give the State of South Dakota two sections of land in each township, when by the act which admitted South Dakota into the Union it was provided that the grant of land of two sections in a township should not apply to the Indian reservations in that State. We are not dealing unjustly by the new States. We are giving them over and over more than the old States ever derived from the distribution of the proceeds of the sale of the public land.

Mr. GAMBLE. I will ask the Senator if it is not true that the act for the admission of the State of South Dakota also provided that when Indian-reservation lands were restored to the public domain there should be carried to the State sections 16 and 36 for school purposes? Was not that in the same law.

Mr. PLATT of Connecticut. I read the provision here the other morning. I simply rose to say that I regretted the Senator from Wyoming should attempt to inject into this debate any question between the older States and the newer States.

Mr. CLARK of Wyoming. Will the Senator permit me?

Mr. PLATT of Connecticut. Certainly.

Mr. CLARK of Wyoming. I do not want to stand in a false light on account of the remark of the Senator from Connecticut. I simply replied to the observation of the Senator from Missouri that it was unjust to tax the older States for lands purchased in the newer States.

Mr. PLATT of Connecticut. Mr. President, speaking for myself, I well remember the time when as chairman of the Committee on Territories I helped to get six of the Western Territories into the Union, very much against the views of some people whom I represented; but I thought it was just. In each one of those acts thousands and hundreds of thousands of acres of the public land were given. I think 500,000 acres of the public land were given as a free gift to each of those States.

Mr. DIETRICH. Mr. President, I should like to call the attention of the Senate to one proposition. When this land is opened for settlement, one-fourth of the land will be owned by Indians. They will own the best portion of that tract of land. Those Indians will not be obliged to pay any taxes, all the taxes falling upon the whites who will own the land. The expense of all the improvements, public highways, public schools, and public buildings

must be borne by the whites. Therefore I believe that we ought to act generously with those settlers who are willing to go among those Indians, and who are to pay the taxes and make the improvements which will be placed there for the benefit of those Indians.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Connecticut [Mr. PLATT].

Mr. PLATT of Connecticut. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BACON. I ask that the amendment may be read.

The PRESIDING OFFICER. The Secretary will read the amendment.

The SECRETARY. In section 3, page 6, line 18, after the word "acre," strike out the remainder of line 18, all of lines 19, 20, 21, 22, 23, 24, and 25, down to and including the word "that," and insert the word "and;" so that if amended the proviso will read:

*And provided further, That the price of said lands shall be \$2.50 per acre, and homestead settlers, who commute their entries under section 2301, Revised Statutes, shall pay for the land entered the price fixed herein.*

Mr. BACON. Will the Secretary please read the language proposed to be stricken out by the amendment?

The PRESIDING OFFICER. The Secretary will read as requested.

The SECRETARY. It is proposed to strike out the following words:

but settlers under the homestead law, who shall reside under and cultivate the land entered in good faith for the period required by existing law, shall be entitled to a patent for the lands so entered upon



the payment to the local land officers of the usual and customary fee and commissions, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry, except that—

And to insert “and.”

The PRESIDING OFFICER. The Secretary will call the roll on agreeing to the amendment of the Senator from Connecticut [Mr. PLATT].

The Secretary proceeded to call the roll.

Mr. GIBSON (when his name was called). I am paired with the junior Senator from New York [Mr. DEPEW]. I am informed that if he were present he would favor the bill and would oppose this amendment. I will therefore vote on this question. I vote “nay.”

Mr. HANSBROUGH (when his name was called). I transfer my pair with the senior Senator from Virginia [Mr. DANIEL] to the senior Senator from Rhode Island [Mr. ALDRICH], and vote “nay.”

Mr. MALLORY (when his name was called). I have a general pair with the senior Senator from Vermont [Mr. PROCTOR]. If he were present I should vote “yea.”

Mr. McLAURIN of Mississippi (when Mr. MONEY's name was called). My colleague [Mr. MONEY] is unavoidably absent on account of sickness. He is paired with the junior Senator from Iowa [Mr. DOLLIVER]. My colleague has a general pair with the junior Senator from Iowa.

Mr. CLAPP (when Mr. NELSON'S name was called). My colleague [Mr. NELSON] is confined to his room by illness.

Mr. PETTUS (when his name was called). I have a general pair with the senior Senator from Massachusetts [Mr. HOAR].

Mr. QUARLES (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]; therefore I will withhold my vote.

Mr. MALLORY (when Mr. TALIAFERRO'S name was called). My colleague [Mr. TALIAFERRO] is unavoidably absent. He had a general pair with the junior Senator from West Virginia [Mr. SCOTT].

The roll call was concluded.

Mr. PERKINS. I desire to state that my colleague [Mr. BARD] is unavoidably absent from the Senate, on account of sickness.

Mr. BATE. I will state that my colleague [Mr. CARMACK] is absent, and is paired with the Senator from Wisconsin [Mr. SPOONER].

The result was announced—yeas 19, nays 38; as follows:

#### YEAS—19.

|             |                 |              |
|-------------|-----------------|--------------|
| Allison,    | Foster, La.     | Martin,      |
| Berry,      | Hawley,         | Morgan,      |
| Clay,       | Kean,           | Platt, Conn. |
| Cockrell,   | Lodge,          | Platt, N.Y.  |
| Cullom,     | McComas,        | Tillman,     |
| Daniel,     | McLaurin, Miss. | Wetmore.     |
| Dillingham, |                 |              |

#### NAYS—38.

|             |               |             |
|-------------|---------------|-------------|
| Bacon,      | Foraker,      | Mitchell,   |
| Bate,       | Foster, Wash. | Patterson,  |
| Beveridge,  | Gamble,       | Perkins,    |
| Blackburn,  | Gibson,       | Pritchard,  |
| Burnham,    | Hanna,        | Rawlins,    |
| Burrows,    | Hansbrough,   | Simmons,    |
| Burton,     | Harris,       | Simon,      |
| Clapp,      | Heitfeld,     | Stewart,    |
| Clark, Wyo. | Jones, Ark.   | Teller,     |
| Deboe       | Kittredge,    | Turner,     |
| Dietrich,   | McCumber,     | Warren,     |
| Dubois,     | McMillan,     | Wellington. |
| Fairbanks,  | Millard,      |             |



## NOT VOTING - 31.

Aldrich,  
Bailey,  
Bard,  
Carmack,  
Clark, Mont.  
Culberson,  
Depew,  
Dolliver,  
Dryden,  
Elkins,  
Frye,

Gallinger,  
Hale,  
Hoar,  
Jones, Nev.  
Kearns,  
McEnery,  
McLaurin, S.C.  
Mallory,  
Mason,  
Money,

Nelson,  
Penrose,  
Pettus,  
Proctor,  
Quarles,  
Quay,  
Scott,  
Spooner,  
Taliaferro,  
Vest.

So the amendment of Mr. PLATT of Connecticut was rejected.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business.

Mr. GAMBLE. I ask that the bill in regard to the ratification of the agreement with the Indians of the Rosebud Reservation be taken up to-morrow morning at the close of the routine morning business in the hope that it will then be finally disposed of.

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Dakota. The Chair hears none, and it is so ordered.

---

[35 Cong. Rec. 5013 (1902)]

#### AGREEMENT WITH INDIANS ON ROSEBUD RESERVATION.

Mr. GAMBLE. Mr. President, I ask unanimous consent that the bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the

same into effect, be taken up for consideration on Monday morning immediately after the morning business, and that its consideration be proceeded with until disposed of.

The PRESIDING OFFICER. The Senator from South Dakota asks unanimous consent that the bill referred to be taken up for consideration on Monday morning after the routine morning business. Is there objection to the request? The Chair hears none, and that order is made.

---

[35 Cong. Rec. 5019-5024 (1902)]

#### AGREEMENT WITH INDIANS OF THE ROSEBUD RESERVATION.

The PRESIDENT pro tempore. The Chair lays before the Senate Senate bill 2992.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation to carry the same into effect.

Mr. TELLER. There is an amendment pending which I offered. It is to strike out in section 3, line 25, page 6, after the word "entry," and the balance of the section, which takes the first three lines on page 7, and then to insert:

No person taking a homestead under the provisions of this act shall be allowed to commute under the provisions of section 2289 or 2391 of the Revised Statutes.

The PRESIDENT pro tempore. The Senator from Colorado offers an amendment, which will be stated.

The SECRETARY. In section 3, page 6, line 25, after the word "entry" strike out the remainder of the section, in the following words:

Except that homestead settlers who commute their entries under section 2301, Revised Statutes, shall pay for the land entered the price fixed herein.

And to insert:

No person taking a homestead under the provisions of this act shall be allowed to commute under the provisions of section 2289 or 2301 of the Revised Statutes.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Colorado.

Mr. PLATT of Connecticut. Mr. President, this matter has been so long before the Senate that the Senate is tired of it, and yet it is an important matter and it ought not to be disposed of without full consideration.

With regard to the pending amendment, the proposition is to apply a different rule for the securing of homesteads to this reservation and the lands which are to come into settlement from what is applied to any other lands in the United States. I do not think that there should be an exception made with regard to this reservation. The law as it now stands, if I am correct, is that upon any of the public lands of the United States a person may obtain a homestead entry, and it requires him to live upon the land for five years, at the end of which time he may obtain a patent without any payment to the Government. But the law also provides, if I am correct, that in all such cases of homestead entries the person who goes upon the land as a homesteader may commute his holding at the end of fourteen months by paying to the Government a dollar and a quarter an acre, unless other rates have been fixed by different acts of Congress.

Now, that is the general land policy of the United States. If we are ready to repeal as to all lands the commutation provision, then it is all right; but so long as we are to keep it with reference to other lands, I know of no reason why it should be repealed as to these lands, which are to be opened for settlement.

There has been a good deal said to the effect that the commutation clause is the one which leads to fraud or speculative entries upon the public lands, but it is a clause which is both for the benefit of the Government and the benefit of the settler. It is for the benefit of the Government in this way: If the entry is commuted, the Government receives pay for the land. It is for the benefit of the settler in this way: He can put no mortgage upon his property; he can neither encumber it nor sell it until the end of five years without the commutation privilege. He can, with the commutation privilege, if he can find friends to advance the money, get a perfect title to his land in fourteen months from the time he settles upon it. That enables him to acquire the means by which the better to improve his holding. It has been for many years the settled policy of the Government that he should have that opportunity.

I do not wish to take up more time with this matter, but I wished to make this statement of the situation. I do not believe it wise to make one section of land which is open to homestead entry subject to the commutation law and another one not subject to the commutation law.

Mr. STEWART. Mr. President, what troubles me about this case is the price of the land. We have not sufficient information on the subject, it seems to me, to pay \$2.50 an acre for the land. The best of it, along the streams, has been already allotted to the Indians, and inasmuch as the treaty may remain pending until next March, I think it would be a wise course to recommit the bill and let us

have an investigation of the price of the land. There is not enough evidence to satisfy my mind that it is worth \$2.50 an acre, and I am not prepared to vote for the bill with the knowledge I have. It seems to me that the price is too high. If we go on in this way we shall have to spend a vast amount of money for the land.

In order to test the sense of the Senate, I move to recommit the bill to the Committee on Indian Affairs, so that we may have more information as to the price of the land before it is finally acted on by the Senate. I make that motion.

Mr. MORGAN. Mr. President, I desire very much indeed to vote for any bill that would facilitate the improvement of the State of South Dakota or any of the Northwestern States, but there is a principle involved in this bill that I can not reconcile myself to support. It is the lottery principle. Why should the United States Government condemn in a criminal and highly penal statute all lottery arrangements of every kind and then turn around and by a statute invite the people from all over the United States to come and enter into a drawing of lands in South Dakota? We simply stultify ourselves, in my judgment, in abandoning that principle which has worked so much good in this country. The suppression of the lottery system in the United States has worked one of the greatest moral reforms we have ever inaugurated in this country.

I notice that other governments, particularly the Government of France, resort to the lottery scheme for the purpose of raising money out of the people to carry on works of improvement, and it seems to encourage a disposition to gamble and to sanction the principle that gambling must be restored to here to get rid of public lands.

It is true these men do not put up anything except their homestead qualifications against a tract of land, but there are hundreds of thousands of tramps and hoboes in this country who are entitled to qualify. If I were living in a State like South Dakota, or any of the Northwestern States, I think I would not like to fill up the population of that State by men invited in under such circumstances. I would rather wait and let a decent, strong, earnest population come in there who are able to take care of themselves, and not bring in the poorest off scourings of the earth, or men who might gamble themselves into an opportunity to make a settlement there.

The principle of the bill, in my judgment, is wrong, and I am obliged to vote against it.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Nevada [Mr. STEWART] to recommit the bill.

The motion was not agreed to.

The PRESIDENT pro tempore. The question now is on the amendment offered by the Senator from Colorado [Mr. TELLER].

The amendment was agreed to.

Mr. GAMBLE. I submit the following amendment.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. Amend the bill, section 3, line 16, page 6 by striking out after the words "*And provided further, That*" the words "the price of said lands shall be two dollars and fifty cents per acre, but;" so as to make the additional proviso read:

*And provided further, That settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall be entitled to a patent for the lands so entered, etc.*



The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from South Dakota [Mr. GAMBLE].

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HANSBROUGH. Mr. President, in connection with this measure, I desire to have inserted in the RECORD that portion of the report of the Secretary of the Interior describing the manner of disposing of Indian lands by lot. It is a very interesting report, and I will also ask that it be printed as a document.

The PRESIDENT pro tempore. The Senator from North Dakota asks that the papers sent to the desk by him may be printed in the RECORD and also printed as a document. Is there objection? The Chair hears none, and that order is made.

The report referred to is as follows:

REPORT OF W. A. RICHARDS, ASSISTANT COMMISSIONER OF THE GENERAL LAND OFFICE,  
RESPECTING OPENING OF KIOWA, ETC.,  
LANDS IN OKLAHOMA.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,

*Washington, October 9, 1901.*

The SECRETARY OF THE INTERIOR.

SIR: I have the honor to submit the following report respecting the opening to settlement and entry of the Kiowa, Comanche and Apache, and Wichita lands situated in the Territory of Oklahoma, ceded to the United States under agreements respectively ratified by the acts of March 2, 1895, and June 6, 1900.

Acting under instructions dated May 13, 1901, I subdivided the territory embraced in the above-named lands into three counties, after having first attached to some of the surrounding counties small portions of the lands more properly belonging to those counties.

The county embracing the lands to the northeast was named Caddo County; the one embracing the lands to the northwest was named Kiowa County, while the one embracing the lands to the south was named Comanche County.

Sites were also selected for the county seats of these new counties, that for Caddo County being in the immediate vicinity of Anadarko station on the Chicago, Rock Island and Pacific Railroad, which was named Anadarko; that for Kiowa County being near the station of Kiowa on the above-named railroad and named Hobart, while the site for the county seat of Comanche County was located 5 miles south of Fort Sill and named Lawton. These town sites each embraced 320 acres and were surveyed into blocks, lots, streets, and alleys. The surveys of these town sites were made by examiners of surveys detailed from the General Land Office for that purpose.

The location of the boundaries of the three new counties and of the town sites for their respective county seats was completed upon June 11, 1901, and a detailed report of my action in connection therewith was submitted and approved.

The expenses incident to the surveying, subdividing, and platting of the town sites, reimbursable to the Government from the sale of lots by the act of March 3, 1901, were \$5,284.24, as set forth in the itemized statement herewith submitted.

## REGISTRATION.

In accordance with your letter of June 29, 1901, under which I was instructed to take charge of the prospective opening of the Kiowa, Comanche and Apache, and the Wichita reservations, I proceeded to Elreno, Okla., arriving at 2 o'clock a.m. of July 10, the day upon which registration was to begin.

Under date of July 4, 1901, the Commissioner of the General Land Office, by direction of the President, established two new land districts in Oklahoma—the Elreno land district, which includes the Wichita Reservation and the northern portion of the Kiowa Reservation, with the land office at Elreno, and the Lawton land district, which includes the remaining portion of the Kiowa and Comanche and Apache reservations, with the land office at Lawton.

By the proclamation of the President of July 4, 1901, Elreno and Lawton were designated as places of registration, it being provided that the registration at each office should be for both land districts, but that at the time of registration each applicant should be required to elect and state in which district he desired to make entry. It was calculated that under this plan three-fourths of those desiring to make entry would register at Elreno and one-fourth at Lawton, which estimate proved to be practically correct. Thirty-three clerks were detailed from the General Land Office to make the registration, 8 of whom went to Lawton and 25 to Elreno.

The proclamation also provided that the office at Lawton should occupy provisional quarters in the immediate vicinity of Fort Sill until suitable quarters could be provided at Lawton. Under authority obtained from the honorable Secretary of War, the registration for the Lawton district was made at Fort Sill, where a commodious building was furnished for the use of the clerks. The registration at

this point was very greatly facilitated by the efficient service rendered by the commanding officer, Maj. G. L. Scott and the officers and men under his command. A very large proportion of those who registered at Fort Sill came there in wagons and went into camp in the valley of Cache Creek, upon the military reservation. During a portion of the period of registration this camp contained more than 10,000 people. Good order prevailed both in the camp and at the registration booth, which speaks well for the efficiency of those in charge of the registration, the military, and the people themselves.

The registration at this place proceeded in a perfectly orderly manner throughout the entire period and was concluded at 6 p.m. of July 26 with a total registration of 29,000, and no qualified applicant was left unregistered at the close of business. Upon the conclusion of the registration, the clerk in charge were transported to the railroad station, 39 miles distant, in Government ambulances kindly furnished by Major Scott, and at 5 o'clock a.m. of July 27 reported for duty to me at Elreno.

The clerks who were to make the registration at Elreno reached that place at 2 a.m. of July 10, and at 10 a.m. of that day began the registration at six booths, which had been previously secured and furnished. Four clerks were placed in each booth to work under the direction of one of their number designated as chief.

Upon the opening of the booths several thousand people were in line before them, some of them having been there more than twenty-four hours. There being a great many women in the lines, I proceeded to secure and furnish a booth to be used exclusively by women, and opened the same at 1 o'clock p.m. of July 10 with two land-office clerks and two clerks temporarily employed, the places of



these two clerks in their respective booths being filled by hiring two additional temporary clerks.

The establishment of this booth was heartily indorsed and highly appreciated by the women, of whom about 8,000 were registered there. As they were not prohibited from registering at the other booths, it is estimated that about 2,000 were so registered, making an estimated total of 10,000 women who were registered at Elreno.

Upon July 10, the first day of registration, 4018 people were registered, which was very satisfactory, all things being considered.

As it was necessary that applications for registration should be sworn to before being presented to the registering clerks, notaries public, clerks of courts, justices of the peace, and other authorized to administer oaths engaged in the business of preparing such papers. At first exorbitant charges were made for such services. To correct this practice I refused to furnish blanks to any officer who would not agree to charge but 25 cents for his services in each case, which resulted in fixing that amount as the general charge. At Fort Sill, where, on account of the military supervision, the matter could be more easily controlled, the charge was fixed at 10 cents.

Upon July 13, through an accident to the pumping machinery at the water works, water was shut off from the mains supplying Elreno with water. The weather was very hot, and there were not less than 15,000 transient people in the city, making the situation one of great seriousness. Unless it could have been remedied at once it would have been necessary to have transferred the registration to some place where there would have been sufficient water. In conference with the city officials, this fact was impressed upon them and it was urged that immediate steps be taken to repair the waterworks.

It was also suggested as a means of temporary relief that casks, with drinking cups attached, be placed at convenient places upon the streets and kept filled with water obtained from wells, with a cake of ice in each cask. These suggestions were acted upon without delay, the water works were speedily repaired, and the public drinking places provided and found to be so useful that they were maintained during the entire period of registration.

In this connection I take pleasure in stating that during the registration and the drawing which followed it the people of Elreno put forth every exertion to provide for the comfort and convenience of the strangers who visited their city. There was no raise in the prices of any of the commodities or accommodations necessary to their comfort, and while for thirty days the city contained more than ten times its normal population, there were no hardships nor suffering, but all were well cared for and made comfortable at very reasonable expense.

The registration progressed in an orderly manner, but on account of the applicants being largely in excess of the number which had been expected it became necessary to employ additional assistance. Booth No. 1 was so situated that a greater number of people applied for registration there than at any other point, and the largest number of clerks employed in one place were in this booth. It was used as a training school, from which clerks could be taken as needed for use in other booths. By keeping fully informed of the movement of trains upon the railroads entering Elreno I was enabled to so arrange the clerks as to be continually prepared to speedily register the great numbers of people who arrived daily. After the second day no unregistered people were left in front of the booths when they were closed for the night. The time appointed for the opening of the booths was 8 o'clock a.m., but they



were frequently opened earlier by the voluntary action of the clerks. The hours of closing were regulated by the number of people who arrived during the day, but 5 o'clock p.m. was the general hour for closing.

Upon Wednesday, July 24, the reports from the railroads and the numbers of people present indicated that the registration would be unusually large, for which we were fully prepared. Between the hours of 8 a.m. and 12 o'clock noon 11,556 people were registered. As eight heavily loaded trains were due to arrive between 4 and 6 p.m., it was arranged that the booths should be kept open until 8 o'clock or until everybody who so desired had been registered. We were disappointed by the railroads, however, and only two of the trains arrived before 8 o'clock, the total registration for the day being something in excess of 16,000.

Registration was effected by the applicant presenting a sworn statement of his qualifications and his desire to be registered, which was received and filed. A small blank was then filled out with the description of the applicant, the name of the land district in which he desired to make homestead entry, and his post-office address, which he signed, after which he was given a certificate of registration.

Upon July 11 a force of clerks was engaged and, in charge of an experienced clerk, was employed in separating by districts and arranging in alphabetical order the applications and identification cards received at the booths on the preceding day. After having been placed in order, each identification card was compared with its corresponding application, and by this means any errors which might have occurred in the registration were corrected. At the same time a typewritten list was made for each district, embracing the names of those registered for that district, each day's work alphabetically arranged.

The applications, identification cards, and lists for each district were subsequently placed in the respective land offices and afford a means of detecting any frauds which may have been attempted through double registration or the attempt to impersonate another person in making an entry.

After the first week of registration the applications of soldiers to register by agent became so numerous and so impeded the registration of others that it became necessary to organize a separate booth for the registration of soldiers by soldiers' agents, which booth was placed in charge of an efficient clerk, and in which were located the register and receiver of the Elreno office, who rendered faithful and efficient service.

It is believed that the fact that all soldiers' agents were required to register at one booth prevented some designing men from attempting to act as agent for more than one soldier, which they might have done successfully if allowed to register at any of the other booths.

Upon Friday, July 26, registration was closed in every booth simultaneously at 6 o'clock p.m., the chief of each booth having set his watch by city observatory time, in addition to which the city fire bell was struck at that hour. At the time of closing there was no unregistered person in front of any booth in the city.

The total registration at Elreno was 135,416. Upon the first day of the registration there was considerable disorder at several of the booths at this place, the people appearing to have an idea that it was necessary for them to secure and hold their positions in line by force and to take every means to guard their own interests. In a very short time they appeared to become satisfied that they were to receive fair treatment; that there would be no favoritism, and that the entire matter was to be

honestly managed, after which there was absolutely no disturbance of any kind in connection with the registration. In fact, there was very little disorder of any character in the city at any time, notwithstanding its overcrowded condition.

Upon the conclusion of the registration all of the land-office clerks were immediately employed in placing the identification cards in proper envelopes and sealing the same, which had been delayed until this time by the fact that it was impossible to obtain the envelopes in time to place the cards in them when the registration was made.

I consider that it was an advantage to those who registered that the cards should not have been placed in the envelopes at the same time that the registration was made, as by the delay an opportunity was afforded to compare each identification card with the sworn application, thus affording a complete check upon the registration and a means of correcting any errors that might have been made in the rush of work.

The identification cards were carefully guarded during the day, at the time of registration, by being placed in locked cash boxes through a slit cut for that purpose, no one but myself having a key to any of these boxes. At night these cards were placed in the vault of the Citizens' State Bank, of El Reno, and were taken out only upon my order.

No one but land-office clerks were employed in placing these cards in the envelopes, which was completed about 4 o'clock of Sunday, July 28, this being the only Sunday upon which we found it necessary to work.

#### THE DRAWING.

By your letter of July 20, 1901, Hon. David P. Dyer, of Missouri; Hon. Frank Dale, of Oklahoma,

and myself were appointed a committee to have the supervision of the drawing to determine the order in which registered applicants would be permitted to make entry in conformity with the President's proclamation of July 4, 1901, of which committee I was appointed chairman.

This committee first met at Elreno on the evening of the 25th day of July and readily agreed upon the plan by which the drawing should be conducted. In pursuance thereof a platform 32 feet square was erected in one of the streets of the city, fronting the high-school grounds, which rose gradually from the platform, affording ample space for those desiring to witness the drawing. A canvas roof covered the platform and canvas curtains were provided with which to inclose its sides in case of a storm.

Two boxes were constructed in which were to be placed the envelopes containing the names of those who had been registered. Each of these boxes was 10 feet long, 2½ feet deep, and 2½ feet wide, with an iron rod running the entire length through the middle of each box, securely fastened. Iron bolts were placed in either end of the boxes and served as pivots upon which the boxes could be revolved. On one side of each box there were three openings about 2 feet apart for the purpose of receiving the envelopes. On another side of each box there were five holes, each separately numbered, large enough to admit the hand and arm of a person and through which the envelopes were to be drawn. These holes were covered with slides except when opened for the purpose of withdrawing an envelope.

On the morning of the 29th of July, at the hour designated in the President's proclamation for the drawing, these boxes were taken upon the platform and placed upon trestles, upon which they could be revolved. The envelopes, containing the names of all who had been registered, were also brought upon



the platform. These envelopes had been separated according to the respective land districts, were of two colors, one being buff and the other white, and bore no distinguishing mark other than the name "El Reno" on those for one district and "Lawton" on those for the other. The envelopes were in pasteboard boxes, each of which contained 400 envelopes, and the boxes for each district were consecutively numbered. Small cards had been prepared bearing numbers corresponding to the numbers upon the envelope boxes, which cards were placed in a receptacle, from which they were drawn at random, and the envelope boxes taken in the order in which the cards were drawn and their contents placed in the larger boxes, a portion of each box through each of the three larger openings, and well scattered throughout the entire length of the box.

When all of the envelopes had been thus placed, these openings in the drawing boxes were closed and securely sealed, and the boxes revolved until the envelopes were thoroughly mixed. Ten reputable young men had been selected, all of whom were under age and therefore not registered and in no-wise interested in the drawing, to draw the envelopes from the boxes. These young men were assigned to the holes in these boxes by lot, and it was also determined by lot which one should begin the drawing at each box. The young man at the hole numbered 3 drew the number entitling him to take the first envelope from the Elreno box, and the young man at the hole numbered 4 drew the number entitling him to take the first envelope from the Lawton box, the drawing thereafter to continue in numerical order.

The drawing began with the Elreno box by the young man at hole No. 3 drawing an envelope, which he handed to Mr. Dale, of the committee,

who caused the same to be numbered 1. He then opened the envelope and took therefrom the identification card and caused the same number to be placed upon it, and then handed the card to Mr. Richards, of the committee, who inspected the same and in turn handed it to Mr. Dyer, of the committee, who announced the name and description of the person to the people. This course was followed until 25 envelopes had been drawn from the Elreno box, after which the box was closed and 25 envelopes were drawn from the Lawton box in the same order and disposed of in the same manner, after which this box was closed and both boxes securely sealed and adjournment taken until 2 o'clock p.m.

Great interest was shown by the people in this part of the drawing, and it was estimated that there were not less than 30,000 present to witness it. The location of the stand and the elevation of the grounds surrounding it were such as to enable all to have a fair view of the proceedings. There was no disorder of any kind, and the announcement of the names drawn was received with great applause.

In the afternoon of this day the drawing was continued until 500 names had been drawn from each box, the same order observed in the drawing of the morning being followed, except that instead of the announcement being made from the platform typewritten lists were prepared, which were taken out into the midst of the audience and read and then posted upon bulletin boards which had been provided for that purpose.

Provision had been made upon the stand for the accommodation of newspaper reporters, of whom a large number were in attendance, and to whom manifold copies of these typewritten lists were furnished and by them supplied to their respective newspapers. All of the daily papers of Oklahoma and many of those of the States of Kansas, Missouri,



and Texas published complete lists of the names and numbers of the first 6,500 drawn for each land district, thus affording notification to those interested.

While the drawing of names was in progress a force of land-office clerks was engaged in preparing postal-card notices to those whose names had been drawn, which were placed in the post-office upon the evening of that day. This course was followed during the entire drawing of the 6,500 names from each land district, the postal cards being mailed on the same day upon which the names were drawn.

At the close of the first day's drawing the boxes were sealed up and left in charge of some of the land-office clerks and a guard of deputy United States marshals, which course was pursued during the entire period of the drawing.

The drawing was continued upon the platform at the rate of 2,000 per day for each land district until the total of 6,500 envelopes had been drawn for each district, which covered a period of four days. The drawing of this number might have been concluded in a shorter space of time, but it was not deemed advisable, as the number drawn per day was as large as the newspapers could conveniently handle. As it was estimated that there was only a sufficient amount of land in each land district to supply 6,500 entrymen, only that number in each district were notified to appear at the respective land offices upon stated days.

Upon the conclusion of the drawing of these 6,500 names for each land district the boxes were removed to a building where the drawing could be more expeditiously conducted and where it was continued in the same manner, each envelope and identification card being given corresponding numbers. The drawing continued until the afternoon of the 6th of August, when the whole number of

envelopes deposited in the two boxes had been separately drawn and numbered.

The postal-card notices for all of the 6,500 names drawn for each land district were mailed by land-office clerks, who exercised great care in this work in order that each one might be properly notified. Upon the conclusion of the mailing of these essential notices a force of clerks was employed, who were nearly all residents of Elreno, and placed in charge of a competent land-office clerk and proceeded to mail notice of the number drawn by each of the remaining ones in each of the land districts. This was done in accordance with the requirements of the President's proclamation, and was a wise provision, as by it each applicant had the satisfaction of knowing that his name had been placed in the box of the district in which he desired to enter and had been drawn in its order.

The commission duly certified to the land officers at Elreno and Lawton the lists of 6,500 names for each land district drawn from the box, showing the order in which those whose names were drawn might make their homestead entries.

While the greatest interest was shown by the people in the first day's drawing, and a larger number were present that day than upon any subsequent day, a very large number of people remained at Elreno until the conclusion of the drawing of 6,500 names in each district. There was the same good order which had prevailed throughout the entire period of registration. No dissatisfaction was at any time expressed as to the plan of the drawing or the manner in which it was conducted, but, upon the contrary, both were very generally commended. Even those who met with disappointment in the drawing of numbers had no criticism to offer, but expressed themselves as satisfied that they had been treated with absolute fairness.

### SALE OF TOWN SITES.

By your letter of July 19, 1901, I was instructed to take charge of and superintend, subject to the provisions of the act of March 3, 1901, and the regulations contained in said letter, the offering and sale of the town lots in the county-seat town sites of Lawton, Anadarko, and Hobart, in the respective and duly formed counties of Comanche, Caddo, and Kiowa, which instructions were supplemented by your telegram of July 26, 1901, relating to the appointment of commissioners.

Acting under these instructions, I appointed J. R. Hampton as commissioner for the sale of the town site of Lawton, C. F. Nesler as commissioner for the sale of the town site of Anadarko, and E. P. Holcombe as commissioner for the sale of the town site of Hobart, and designated the auctioneers and clerks who were to assist them. These commissioners gave the required bonds, which were approved by the Department, entered upon their duties, and began the sale of the town lots promptly at 9 o'clock of August 6 in each of the three town sites. The sales were continued from day to day without any special incidents worthy of note. There was no occasion to suspend the sales and no evidence of any combination among the bidders to suppress competition or prevent the sale of lots at a reasonable value, nor was there any disturbance among the bidders or those present which prevented the orderly progress of the sale. All lots purchased were immediately paid for in cash, and the money received therefor was transmitted by each commissioner, without delay, to the subtreasury at St. Louis. Every precaution was taken for the safekeeping of the money while in the possession of the commissioners. The greatest precaution taken to protect the money received from these sales was at Lawton.

When the sales began at this place, on the 6th of August, the nearest railroad station was Rush Springs, Inc. T., a distance of 30 miles, the road from Lawton to which place ran through an unsettled country. A military escort of 10 cavalrymen, in command of a sergeant, was provided by Major Scott, the commanding officer at Fort Sill, and as it was necessary to make this trip of 30 miles six times a week, it required two details upon the road all the time. Subsequently the Chicago, Rock Island and Pacific Railroad was completed to a point 12 miles north of Fort Sill, at which point an express office was established, after which the funds were taken to that point, and at the conclusion of the sale the road had been completed to Fort Sill.

A guard of cavalrymen was also furnished each day for the protection of the money during the sale and during its transmission from Lawton to Fort Sill, where it was necessary that it should be kept overnight, which was also done under guard. The money paid for town lots at Lawton was under a military guard from the time it was paid to the commissioner until it was delivered to the express company. The same was true of the money received from the sale of lots at Anadarko, a detachment of cavalry being stationed at that place for the purpose of guarding the receipts of the sale of that town site.

There were no troops stationed at Hobart, the protection of the funds received there being provided by deputy United States marshals. The deputies furnished by the United States marshal also rendered very efficient services at Anadarko and Lawton, in conjunction with the military guard. There was no loss of funds of any kind at either of these town sites.

The sales progressed without interruption, every lot in each of the town sites being sold and paid for and the sales concluded within the time prescribed



by your instructions. The receipts from the sales of these town sites were as follows:

| Town site.     | Number of lots. | Total receipts. |
|----------------|-----------------|-----------------|
| Lawton .....   | 1,422           | \$414,845       |
| Anadarko ..... | 1,129           | 188,455         |
| Hobart .....   | 1,308           | 132,733         |

making the total receipts from the sale of the three town sites \$736,033.

The expenses incurred in making the sales of these town sites are as follows:

|                |                 |
|----------------|-----------------|
| Lawton .....   | \$2,489.62      |
| Anadarko ..... | 1,544.53        |
| Hobart .....   | <u>1,797.00</u> |

Total ..... 5,831.15

which is a little less than four-fifths of 1 per cent of the total receipts.

Under the authority of your telegram of August 3, 1901, these expenses, which included the pay of the commissioners, were paid from the receipts of the respective sales, and the net receipts only were deposited in the sub-treasury at St. Louis to your credit as trustee for the respective town sites. These amounts so deposited are, respectively, as follows:

Lawton:

|                      |                 |
|----------------------|-----------------|
| Total receipts .     | \$414,845.00    |
| Total expenses ..... | <u>2,489.62</u> |

Amount deposited ..... \$412,355.38

Anadarko:

|                      |                 |
|----------------------|-----------------|
| Total receipts ..... | 188,455.00      |
| Total expenses ..... | <u>1,544.53</u> |

Amount deposited ..... 186,910.47

Hobart:

Total receipts ..... 132,733.00

Total expenses ..... 1,797.00

Amount deposited ..... 130,936.00

Total amount deposited ..... 730,201.85

It is provided in the act of March 3, 1901, that "the receipts from the sale of these lots in the respective county seats shall, after deducting the expense incident to the surveying, subdividing, platting, and selling of the same, be disposed of under the direction of the Secretary of the Interior, in the following manner," etc.

A statement has heretofore been submitted of the expenses incident to the surveying, subdividing, and platting of the town sites of Lawton, Anadarko, and Hobart. As these town sites embrace the same number of acres, and the expenses incident to their survey were practically the same in each case, no attempt has been made to keep an account with each town site, but the expenses incident to their survey are submitted in one account, with the suggestion that in my opinion they should be divided equally between the three town sites, one-third of the gross amount to be charged to each one.

These accounts have all been audited in the General Land Office and paid from the appropriations to which they are properly chargeable.

It appears that the entire amount of expenses so incurred and paid and which should now be deducted from the receipts of sales of said town lots on account of said expenses, and deposited to the credit of the Treasurer of the United States, is \$5,284.24, one-third of which is \$1,761.41, which amount it is recommended should be charged against the receipts from the sale of each town site.



If the distribution of expense of survey is made as herein suggested, the net balance to the credit of the town sites will be as follows:

## Lawton:

|                              |                 |
|------------------------------|-----------------|
| Gross receipts .....         | \$414,845.00    |
| Less expense of survey ..... | \$1,761.41      |
| Less expense of sale ....    | <u>2,489.62</u> |
| Total expense .....          | <u>4,251.03</u> |
| Total net receipts .....     | \$410,593.00    |

## Anadarko:

|                              |                 |
|------------------------------|-----------------|
| Gross receipts .....         | 188,455.00      |
| Less expense of survey ..... | 1,761.41        |
| Less expense of sale ....    | <u>1,514.53</u> |
| Total expense .....          | <u>3,305.91</u> |
| Total net receipts .....     | 185,149.06      |

## Hobart:

|                                                           |                   |
|-----------------------------------------------------------|-------------------|
| Gross receipts .....                                      | 132,733.00        |
| Less expense of survey .....                              | 1,761.41          |
| Less expense of sale ....                                 | <u>1,797.00</u>   |
| Total expense .....                                       | <u>3,558.41</u>   |
| Total net receipts .....                                  | <u>129,174.50</u> |
| Total net receipts from sale of<br>three town sites ..... | 724,917.00        |

Great credit is due to the commissioners and those associated with them for the successful manner in which the sales of these town sites were conducted. At the beginning of the sales there were no buildings upon either of the town sites which could be used by the commissioners, and it was necessary that temporary platforms should be erected, upon which the sale were conducted. At Lawton a small building was also constructed, which was occupied by the commissioner and his clerks, while they occupied sleeping apartments and

boarded at Fort Sill. At Anadarko the commissioner and his assistants obtained board and lodging at the Indian agency, adjoining the town site, while at Hobart the commissioner and his assistants lived in a tent adjoining the platform upon which the sales were made.

While the time devoted to the sale of lots was from 9 a.m. until 4 p.m., it was necessary that the commissioners and their assistants should begin work much earlier than 9 o'clock, while the making up of their accounts and reports occupied their time for several hours after the sales were closed.

At each one of the town sites it was necessary that the money received from the day's sales should be retained by the commissioner over night, as the express company would not receive it until the following day. This necessitated a night guard upon the money, and was a constant source of care to the commissioners.

The sales were conducted to the entire satisfaction of those who participated in the purchase of lots, while the amounts received were larger than had been expected. The expenses incident to the survey and the sale were as small as the conditions under which they were made would permit, and the net receipts are sufficient to place each of the new counties upon a good financial basis.

### THE ENTRIES.

In accordance with the President's proclamation, the land offices at Elreno and Lawton were duly opened for business upon the qualification of their respective registers and receivers. Prior to August 6, 1901, the business of these officers was principally confined to passing upon applications for reservations for town-site purposes, of which there were seven in the Elreno district and three in the Lawton

district which finally received your approval, and to receiving the additional entries of those entrymen having entries adjoining the ceded lands of less than 160 acres. While not so employed the local land officers of these districts were engaged upon the registration in progress at Fort Sill and Elreno, in which they rendered valuable assistance. Upon August 6, at 9 o'clock a.m., these officers were opened for the receipt of entries by those holding numbers entitling them to make homestead entries. Both at Lawton and Elreno buildings suitable for land-office purposes had been erected and furnished.

In addition to the usual supply of blanks, maps, and plats, each office was provided with a map of its district, drawn upon a scale sufficiently large to distinctly show each smallest legal subdivision of land. Each of these maps was in charge of an experienced land-office clerk, and was accessible to those desiring to make entries. As soon as made each entry was marked off upon the map, and thus it constantly showed the land open to entry in that district, which was of very great assistance to the entrymen. In addition to the regular clerks allowed the local land offices, several detailed clerks from the General Land Office were on duty in each of these offices. With this force no difficulty was experienced in receiving and recording the 125 entries per day provided by the proclamation. Those holding low numbers entitling them to make early entries, generally selected land contiguous to some one of the town sites, preference being given to those designated as county seats. Upon the land adjoining these town sites, and especially at Lawton, large numbers of people had congregated prior to the day of opening. This unwarranted occupation was not brought to my attention until August 5. As the entries were to begin at 9 o'clock a.m., of August 6, and these occupied lands would be the

first applied for, immediate action was necessary. I therefore prepared the following order to the register and receiver of the Lawton office, a copy of which was also filed in the Elreno office.

"The occupation of the south half of section 31, township 2 north, range 11 west, or any other portion of the unreserved lands in your district, by any person for purposes of residence, trade, or business, except after having made a legal entry of the same, is in violation of law and the President's proclamation, and gives such persons no rights whatever. You will allow homestead entries of said lands by qualified entrymen, notwithstanding any such occupation. Acknowledge receipt."

A copy of this message was filed in the telegraph office, and another mailed, but as both these means of communication were very uncertain owing to the great pressure of business, another copy was intrusted to a clerk going to Lawton by way of Rush Springs, while a fourth copy was given a clerk going to Anadarko, who placed it in the hands of an Indian courier, who left that place at midnight and made the ride of 40 miles to Lawton before 9 o'clock of August 6. The first two entries made at the Lawton office were for the half section of land mentioned in this order. Several attempts have been made to contest one of these entries upon grounds covered by this order, but all have failed.

The entries at the land offices continued without interruption throughout the prescribed period of sixty days. The numbers of those entitled to make entry each day were called in their order. Anyone failing to respond was passed until after the other applications assigned for that day had been disposed of, when he was again called both by name and number, and if he still failed to appear he was held to have abandoned his right to make entry under the drawing.

In accordance with your telegraphic regulations of August 5, appeals from the action of the local land officers at Elreno and Lawton rejecting applications to make or amend entries could only be taken within one day, Sundays excepted, after such rejection. When such appeals were taken, the papers were immediately forwarded to the General Land Office, where they were at once carefully examined and forwarded to you, with appropriate recommendation, when the cases would be promptly decided and closed.

Applications to contest entries made during this sixty-day period were treated in the same manner.

This course provided an adequate and speedy method of correcting any material errors in the local offices, and it is believed that at the same time it tended to discourage groundless appeals and contests. While there were quite a number of applications to contest entries sent up from each of the local offices, such contests were allowed and hearings ordered in but a comparatively small number of cases in each office. Hearings were ordered only in cases where it was shown beyond a reasonable doubt that the entryman was disqualified at the time of making entry, which fact he had concealed from the land officers, or in some other manner had made what might be termed a fraudulent or illegal entry.

During the entire period occupied in opening these ceded lands to settlement and entry suits at law were in progress calculated to prevent such opening in whole or in part. Of those brought in Oklahoma, the suits in equity brought by Lone Wolfe and others in the district court of Canadian County Okla., asking that the Government be restrained from disposing of said ceded lands were, prior to August 6, 1901, decided in favor of the Government. Subsequent to August 6 temporary restraining orders, granted by the probate judge of

Canadian County, Okla., against the disposal of certain described tracts on the application of Rebecca Young and other alleged Indians, were modified by the district judge of Canadian County, permitting the disposition of said lands, subject to the rights, if any, of the said alleged Indians.

Restraining orders were issued by the probate judge of Canadian County, Okla., on the application of William H. Brintle and ten other alleged settlers on the western boundary of the Wichita Reservation. The two suits last above mentioned have not been disposed of, but the Attorney-General has directed the United States attorney for the district of Oklahoma to appear for the Government in said cases.

The suits of Lone Wolf and others did not in any wise interfere with the registration, drawing, or disposition of said lands. Those of Rebecca Young and others temporarily prevented the disposition of a small number of tracts, and those of Brintle and others affected less than a dozen claims, and were not filed until near the close of the sixty-day period.

While an itemized statement of the expenses incident to the registration, drawing, and making entries under the proclamation can not be prepared until full reports have been received from the local land officers at Lawton and Elreno, a very close estimate of the same can be made, as follows:

|                                         |         |
|-----------------------------------------|---------|
| Salaries and per diem of W.A. Richards  |         |
| and 33 detailed clerks during the       |         |
| time engaged in registration, drawing,  |         |
| and making entries (estimated) . . . .  | \$8,271 |
| Railroad fare and necessary traveling   |         |
| expenses of same from Washington,       |         |
| D.C., to Oklahoma and return . . . . .  | 3,100   |
| Incidental expenses of registration and |         |
| drawing, as shown by advances made      |         |
| to the local officers . . . . .         | 5,920   |



|                                                                 |        |
|-----------------------------------------------------------------|--------|
| Salaries of registers and receivers for<br>two months .....     | 2,000  |
| Salaries of 10 local land office clerks<br>for two months ..... | 1,500  |
| Total .....                                                     | 20,791 |

In addition to other fees of which no account is now available, the land offices at Lawton and Elreno received as fees upon the 11,638 homestead entries made during the sixty-day period the sum of \$162,932, which sum will be deposited in the Treasury. Deducting from this sum the amount of expenses as estimated, a balance of \$142,141 is left to the credit of the Government upon this account. This is a net sum accruing to the Government in the transaction of the business of opening these ceded lands to settlement and entry.

As showing the financial working of the plan prescribed by the proclamation, it is proper to take into account the net receipts from the sale of the three county-seat town sites, although they will be devoted to public improvements in the respective counties. The net receipts from the town-site sales were \$724,917, which, added to \$142,141, the net receipts of the homestead entries, makes a total of \$867,058 as the net receipts from the opening of these lands up to October 4, 1901, the end of the sixty-day period fixed by the proclamation.

During the first days of making entries there were very few who failed to appear and make entry when their names were called. As the entries progressed, however, and good claims became more difficult to find, the proportion of those failing to appear increased. This was not entirely due to a failure to find a desirable piece of land, but partly to the fact that many holding a high number and living at a distance from the land district abandoned the idea of making an entry without visiting the district and

making an effort to find an acceptable claim. A few were prevented by sickness from making entry, and several deaths were reported of those holding numbers entitling them to make entry. The entries under the proclamation were concluded at each of the land offices upon October 4, 1901.

At the Lawton office 5,895 entries were made, including soldiers' declaratory statements filed, and 605 either failed to appear or were found to be disqualified.

At the Elreno office 5,743 entries were made, including soldiers' declaratory statements filed, and 757 either failed to appear or were found to be disqualified.

There were filed at the Lawton office 243 soldiers' declaratory statements, and 275 such filings were made at the Elreno office. There were 346 women who made entries at the Lawton office and 424 women who made entries at the Elreno office.

During the sixty days prescribed by the proclamation 11,638 filings were made, of which 518 were soldiers' declaratory statements and 770 were made by women, while 1,362 holding numbers entitling them to make entries failed to do so.

The period during which these ceded lands could only be taken in accordance with the President's proclamation ended up October 4, and reports since received from the Lawton and Elreno land offices are to the effect that the lands remaining open to entry by reason of failure to make entry of some who were entitled to do so are being rapidly settled upon and entered under the general homestead laws, without confusion or disorder.

In the foregoing statements I have endeavored to report everything of importance pertaining to the action taken under your direction in disposing of these ceded Indian lands, in accordance with the acts of Congress pertaining thereto and the Presi-

dent's proclamation. It is believed that the intent and purpose of those acts and of the proclamation have been fully carried out. There has been no complaint of discrimination or unfairness, and there were but little of the hardships and suffering usually encountered in the settlement of a new country. Without strife or contention, but in a quiet, peaceful, and orderly manner, these lands have passed from the condition of an Indian reservation to that of a populous, thrifty, peaceable agricultural community.

Very respectfully,                      W. A. RICHARDS,  
*Assistant Commissioner.*

DEPARTMENT OF THE INTERIOR,  
 Washington, October 11, 1901.  
 HON. W. A. RICHARDS,  
*Assistant Commissioner of the General Land  
 Office.*

DEAR SIR: I am in receipt of your report dated the 9th instant, respecting the opening to settlement and entry of the Kiowa, Comanche, Apache, and Wichita lands, situated in the Territory of Oklahoma, and ceded to the United States under agreements respectively ratified by the acts of March 2, 1895, and June 6, 1900.

I have read your report with care and the greatest satisfaction, and beg to cordially thank you and every member of your staff for the very thorough, economical, and successful manner in which you, with their assistance, conducted and completed the somewhat unusual, extremely laborious work, and for the systematic, business-like method in which you discharged the duties imposed upon you by the Department, you having made a record which, I trust, will be accepted as a precedent for all future openings of the public domain.

The quiet and orderly manner in which the opening was accomplished is most gratifying, especially when contrasted with the utter disregard of law and order, the outrages, and the contests which characterized the former openings on the "sooner" plan, and the spectacle of 151,000 disappointed applicants quietly retiring in favor of the 13,000 successful ones is a characteristic demonstration of the willingness of the American people to respect and obey the law when its enforcement is accomplished by such rules and regulations as to provide an absolute equality of opportunity to all, as was the case in the opening which you have conducted with so much credit as to have also secured the unqualified approval of all who were interested therein.

Again thanking you and your assistants, I remain,  
 Yours, most respectfully,  
 E. A. HITCHCOCK, *Secretary.*

DEPARTMENT OF THE INTERIOR,  
 GENERAL LAND OFFICE,  
 OFFICE OF THE ASSISTANT COMMISSIONER,  
 Washington, D.C., October 16, 1901.  
 HON. E. H. HITCHCOCK,

*Secretary of the Interior, Washington, D.C.*

DEAR SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant relating to my report respecting the opening to settlement and entry of the lands of Oklahoma ceded by the Kiowa, Comanche, Apache, and Wichita tribes of Indians.

It is a matter of great satisfaction to me to be so cordially assured that my efforts to carry out your plans and instructions are so highly appreciated and the results obtained meet with your approval. While I and those associated with me put forth our best endeavors, the success which was achieved is in a large measure due to the perfection of the plans and to the hearty support and excellent advice received from you.



I fully appreciate the trust and confidence shown in giving me such great latitude in this work, and prize your letter more highly because it assures me that you were not disappointed.

Thanking you for your kindly consideration and expressions of approval, I remain,

Very respectfully, yours, W. A. RICHARDS,  
*Assistant Commissioner.*

Mr. STEWART. Mr. President, since the motion to recommit was made there have been other proceedings in the Senate, and I inquire if it is now in order to renew my motion to recommit the bill?

The PRESIDENT pro tempore. The bill is now in the Senate, and a motion to recommit is in order.

Mr. STEWART. Then I move to recommit the bill to the Committee on Indian Affairs, and I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. CULBERSON (when his name was called). I have a general pair with the junior Senator from Wisconsin [Mr. QUARLES]. I do not see him present in the Chamber, and therefore I withhold my vote.

Mr. HEITFELD (when the name of Mr. DUBOIS was called). My colleague [Mr. DUBOIS] is temporarily absent. If he were present, he would vote "nay."

Mr. KEAN (when his name was called). I am paired on this question with the junior Senator from Utah [Mr. KEARNS]. If he were present, I should vote "yea."

Mr. McCUMBER (When his name was called). I have a general pair with the junior Senator from Louisiana [Mr. Foster], and therefore refrain from voting.

Mr. CLAPP (when Mr. NELSON'S name was called). My colleague [Mr. NELSON] is necessarily absent. He is paired with the Senator from Missouri [Mr. VEST].

Mr. PROCTOR (when his name was called). I am paired with the Senator from Florida [Mr. MALLORY], and therefore withhold my vote.

Mr. QUARLES (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. If he were here, I should vote "yea."

Mr. RAWLINS (when his named was called). I have a general pair with the Senator from Ohio [Mr. HANNA]. If he were present, I should vote "nay."

Mr. SPOONER (when his name was called). I have a general pair with the Senator from Tennessee [Mr. CARMACK], who is not present, and I do not know how he would vote if here. If I were at liberty to vote, I should vote "nay."

Mr. VEST (when his name was called). I inquire whether the Senator from Minnesota [Mr. NELSON] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. VEST. Then I withhold my vote, as I am paired with that Senator. If at liberty to vote, I should vote "nay."

The roll call was concluded.

Mr. BAILEY (after having voted in the affirmative). I desire to inquire if the Senator from West Virginia [Mr. ELKINS] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. BAILEY. As I have a general pair with that Senator, I will withdraw my vote.

Mr. RAWLINS. I am informed that the senior Senator from Ohio [Mr. HANNA], with whom I am paired, would vote "nay" if present. I therefore take the liberty of voting, and vote "nay."



Mr. CLAPP (after having voted in the negative). In view of the fact that the Senator from North Carolina [Mr. SIMMONS], with whom I am paired, is absent, I will withdraw my vote.

The results was announced—yeas 12, nays 35; as follows:

| YEAS—12       |                 |              |
|---------------|-----------------|--------------|
| Clay,         | Jones, Ark.     | Platt, Conn. |
| Cockrell,     | Lodge,          | Stewart,     |
| Dryden,       | Morgan,         | Tillman      |
| Hoar          | Pettus,         | Wetmore.     |
| NAYS—35       |                 |              |
| Allison       | Dietrich,       | McComas,     |
| Bacon,        | Dolliver,       | McMillan,    |
| Bate,         | Fairbanks,      | Millard,     |
| Beveridge,    | Foraker,        | Money,       |
| Blackburn,    | Frye,           | Patterson,   |
| Burnham,      | Gallinger,      | Perkins,     |
| Burrows,      | Gamble,         | Platt, N.Y.  |
| Burton,       | Gibson,         | Rawlins,     |
| Clark, Mont.  | Hansbrough,     | Teller,      |
| Clark, Wyo.   | Harris,         | Turner,      |
| Cullom,       | Heitfeld,       | Warren.      |
| Deboe,        | Kittredge,      |              |
| NOT VOTING—41 |                 |              |
| Aldrich,      | Foster, Wash.   | Mitchell,    |
| Bailey,       | Hale,           | Nelson,      |
| Bard,         | Hanna,          | Penrose,     |
| Berry,        | Hawley,         | Pritchard,   |
| Carmack,      | Jones, Nev.     | Proctor,     |
| Clapp,        | Kean,           | Quarles,     |
| Culberson,    | Kearns,         | Quay,        |
| Daniel,       | McCumber        | Scott,       |
| Depew,        | McEnery,        | Simmons,     |
| Dillingham    | McLaurin, Miss. | Simon,       |
| Dubois,       | McLaurin, S.C.  | Spooner,     |
| Elkins,       | Mallory,        | Taliaferro,  |
| Foster, La.   | Martin          | Vest,        |
|               | Mason,          | Wellington.  |

So the motion to recommit was rejected.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

The bill was passed.

---

[35 Cong. Rec. 5198 (1902)]

### SENATE BILLS REFERRED.

\* \* \*

S. 2992. An act to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect—to the Committee on Indian Affairs.

---

[35 Cong. Rec. 5613-5614 (1902)]

Mr. BURKE of South Dakota, from the Committee on Indian Affairs, to which was referred the bill of the Senate (S. 2992) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect, reported the same with amendment, accompanied by a report (No. 2099); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

---

[#5A]

[S. Rep. No. 662, 57th Cong., 1st Sess. 1-6 (1902)]  
 (Senate Report to accompany S. 2992.)

Report No. 662

RATIFYING AGREEMENT WITH INDIANS  
 OF THE ROSEBUD RESERVATION, S. DAK.

---

March 7, 1902.—Ordered to be printed.

---

Mr. GAMBLE, from the Committee on Indian Affairs,  
 submitted the following

REPORT.

[To accompany S. 2992.]

The Committee on Indian Affairs, whom was referred the bill (S. 1992) ratifying an agreement with the Sioux Tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect, having had the same under advisement, make the following report and recommend that the bill do pass with the following amendments:

Insert after the word "missions," line 18, section 3, the following: "and lands reserved for common schools as provided in section 4 of this act."

Add the following as an additional section to said bill:

SEC. 4. That sections 16 and 36 of the lands hereby acquired in each township shall not be

subject to entry, but shall be reserved for the use of the common schools, and the same are hereby granted to the State of South Dakota for such purpose; and in case either of said sections, or parts thereof, of the lands in said county of Gregory is lost to said State of South Dakota by reason of allotments thereof to any Indian or Indians now holding the same, or otherwise, the governor of said state, with the approval of the Secretary of the Interior, is hereby authorized, in the tract herein ceded, to locate other lands not occupied in quantity equal to the loss, and such selection shall be made prior to the opening of such lands to settlement.

Your committee relieves the provision of the agreement proposed to be ratified are just and equitable, both as regards the United States as well as the Indians. The area of the reservation embraced in Gregory County proposed to be ceded under this agreement is 416,141.24 acres. There are 452 Indians holding allotments in the county, aggregating 104,999 acres. The price proposed to be paid for the lands to be ceded is \$2.50 per acre, making the amount to be paid for the cession \$1,040,000.

Two hundred and fifty thousand dollars of this amount is to be expended in the purchase of stock cattle for the benefit of the Indians, and the balance is to be paid per capita in cash in five equal annual allotments.

The subject of the proposed agreement has been under consideration for some time, and a bill authorizing the negotiation of the same was favorably reported from the Committee on Indian Affairs in the House in the last Congress.

The lands now open to settlement within the limits of Gregory County are limited in area. In the year 1898 the

county government was organized. Although all of the lands open to the settlement are occupied, the territory is so limited and the population so few in number the burdens of local government are too onerous to be borne with advantage to the community. The people are anxious that this particular part of the reservation be opened and opportunity given for settlement and development of the region of the State. It would add a larger population, increase the wealth and production, and relieve the burdens of necessary and legitimate taxation.

To open the lands to settlement would be carrying out the policy of the Government in this particular and in harmony with treaty stipulations and the provisions of the law of 1889 in the opening of the Great Sioux Reservation. The Indians on this reservation have taken their allotments, and the lands proposed to be opened by this bill are not used and are unnecessary to the support and maintenance of the tribe. In addition to this tract they have a large body of land still unallotted. By opening the lands covered by the agreement to occupation and development it would inure to the benefit of the Government, the State, and the Indians themselves. The consideration received by the Indians on account of the cession should put them in position to be more self-sustaining, and be helpful to their better condition and development.

The provisions of the bill in regard to opening the lands to free homesteads is in line with the declared policy of the Government as expressed in the act of May 17, 1900. The amendment proposed by your committee in regard to the reservation of sections 16 and 36 in each township for the support of the common schools is in the usual form, and in conformity to the action of Congress in like cases, and as provided by the Act of Congress admitting the State of South Dakota into the Union.

The committee submits, as a part of its report, the communication of the Secretary of the Interior, the Commissioner of Indian Affairs, and the Commissioner of the General Land Office, covering the subject in question.

DEPARTMENT OF THE INTERIOR,  
*Washington, December 6, 1901.*

SIR: I have the honor to transmit herewith a copy of a report of the Commissioner of Indian Affairs, dated the 23d ultimo, and accompanying copy of an agreement, dated September 14, 1901, between United States Indian Inspector James McLaughlin and the Indians of the Rosebud Reservation, S.D., providing for the cession to the United States of the unallotted portion of their lands embraced in Gregory County, S. Dak., with the draft of a bill prepared by the Commissioner of Indian Affairs and the Commissioner of the General Land Office, ratifying the agreement, and accompanying papers.

This agreement has been carefully considered by the Commissioner of Indian Affairs, and as it seems fair and reasonable, and the terms the best that could be obtained, I have the honor to recommend that it receive favorable action by the Congress.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

The PRESIDENT PRO TEMPORE, UNITED STATES  
SENATE

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
*Washington, November 23, 1901.*

SIR: The office has the honor to acknowledge the receipt of a letter dated October 11, 1901, from the Acting Secretary of the Interior, transmitting a report by United States Indian Inspector James McLaughlin, dated



October 5, 1901, with which he inclosed an agreement dated September 14, 1901, with the Indians of the Rosebud Reservation, in South Dakota, providing for the cession of the unallotted portion of their lands embraced in Gregory County. In his said letter the Acting Secretary directed that if the office, after consideration, finds no objection to the approval of said agreement, proper report be prepared for presentation to Congress with a view to the ratification of the agreement.

The question of securing the cession of the lands referred to was first suggested during the first session of the Fifty-sixth Congress, when bills providing for negotiations to that end were introduced. Aside from the fact that the lands in question, which are not being used by the Indians, are very desirable for agricultural purposes, the main reason put forward for having the lands opened up was that at the present time the larger portion of Gregory County was embraced in the Indian reserve, so that it was difficult for the remainder of the county to maintain the county organization.

The office has also had a great deal of correspondence with the people at large during the past two years in reference to the opening of said lands.

No Congressional authority for conducting negotiations, however, was granted until, by a provision contained in the last Indian appropriation act, approved March 3, 1901, the Secretary of the Interior was authorized, in his discretion, to negotiate through a United States Indian inspector with any Indians for the cession of portions of their respective reserves. Accordingly, under date of March 19, 1901, a draft of instructions was prepared by this office for the guidance of the United States Indian inspector conducting negotiations with the Rosebud Indians for the lands referred to. Said instructions were approved by the Department on

March 21, 1901, and Inspector McLaughlin detailed for the duty of conducting negotiations.

In his report dated October 5, 1901, the inspector states that he arrived at the Rosebud Agency on April 2, 1901, for the purpose of entering upon negotiations with the Indians, and that upon his arrival it was ascertained that smallpox was prevalent on the reservation, wherefore he deemed it inadvisable to assemble the Indians in general council. He states, however, that he made a trip to the Ponca Creek district, which is in Gregory County, about 100 miles east of the agency, for the purpose of conferring with the Indians there who would be the most affected by the cession, and for the purpose of traveling over that portion of the reserve and securing a knowledge of the lands whose cession it was proposed to secure.

Negotiations having been postponed at that time, with the approval of the Department, the inspector states that he proceeded to carry out orders elsewhere, and returned to the Rosebud Agency on August 18 last, and at once entered upon negotiations which, though somewhat protracted and at times discouraging, he says have been satisfactorily concluded.

Article 1 of the agreement concluded by the inspector with said Indians provides that in consideration of the sum thereafter named the Indians ceded to the United States all that portion of their reservation not allotted situated and lying east of the tenth guide meridian. Said guide meridian forms the township line between townships 37 and 74 west, and is also the west boundary line of Gregory County, so that the lands ceded embrace all of the Indian reservation not allotted situated in said county.

Article 2 stipulates that in consideration of the cession agreed to by article 1 of the agreement the United States will expend for and pay to the Rosebud Indians the sum of \$1,040,000.

Article 3 provides that 250,000 shall be expended in the purchase of stock cattle of native range or graded Texas 2-year-old heifers and graded Durham or Hereford 2-year-old bulls for issue to said Indians, the same to be distributed as equally as possible among the men, women, and children as soon as practicable after ratification of the agreement.

This article further provides that the balance of the consideration, \$790,000, shall be paid to the Indians per capita in cash in five annual installments of \$158,000 each, the first of such cash payments to be made within four months after the ratification of the agreement.

Article 4 provides that all persons of the reservation who have received allotments and are now recognized as members of the tribe, belonging to the reservation, including mixed-bloods, whether their white blood comes from the paternal or maternal side, and the children born to them, shall enjoy the undisturbed and peaceable possession of their allotted lands, and shall be entitled to all the rights and privileges enjoyed by full-blood Indians. This article further provides that white men theretofore lawfully intermarried into the tribe and now living with their families upon the reserve shall have the right to residence thereon not inconsistent with existing statutes.

Article 5 provides that nothing in the agreement shall be construed to deprive the Indians of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provision of this agreement.

Article 6 stipulates that the agreement shall not take effect and be in force until the same is accepted and ratified by the Congress of the United States.

The agreement is dated September 14, 1901, and contains the signatures of James McLaughlin, United States Indian inspector, and of 1,031 male adult Indians

of the Reservation. A certificate dated October 4, 1901, by William Bordeaux, official interpreter, and William F. Schmidt, special interpreter, is appended to the agreement to the effect that the provisions thereof are fully explained by them to the Indians in open council, that it was fully understood by them before signing, and that signatures, though the names are similar in some cases, represent different individuals in each instance, as indicated by their respective ages.

Another certificate is attached to the agreement, dated October 4, 1901, by Frank Mulle, agency clerk, and by C.H. Bennett, John Sullivan, Frank Robinson, Frank Sypal, Isaac Bettelyoun, and James A. McCorkle, farmers of the several districts of the reservation, and Louis Bordeaux, ex-farmer of the agency district, to the effect they they witnessed the signatures of the United States Indian Inspector McLaughlin and of the 1,031 Indians of the Rosebud Agency to the agreement.

A certificate dated October 4, by the United States Indian Agent Charles E. McChesney, is also attached, stating that the total number of male adult Indians over 18 years of age belonging on the reservation is 1,359, of whom 1,031 have signed the agreement, being twelve more than three-fourths of the male adult population of the reservation.

Respecting the terms of the cession, Inspector McLaughlin states in his report that he was greatly handicapped in the beginning by the fact that most of the Indians who favored a cession at all held the lands at an enormous price—from \$7 to \$15 per acre; that only a very few expressed their willingness to accept as low as \$5 per acre, and this in cash and all in one payment; that upon his arrival all the white men connected with the agency, as well as those of the surrounding country with whom he talked, held the lands in question as worth \$5



per acre; that it appeared that adjacent lands in Gregory County and in Hoyt County, Nebr., were selling at from \$5 to \$10 per acre; that a syndicate of cattlemen in Sioux City, Iowa, expressed its willingness to pay \$5 per acre for the entire tract, and that these current rumors and fictitious values placed upon the lands which were circulated among the Indians exercised them very much and had to be overcome by reasoning, which required time and a great amount of patience.

Having been unable to get the Indians to fix a price upon the lands in his first councils with them, the inspector states that in the council held September 12 he made them a flat offer of \$2.50 per acre for the tract, stating that this was double the minimum price of Government lands and full value for their unallotted lands in Gregory County; that while he regarded the land worth that amount, it was all that it was worth, and that his offer would not be increased, whereupon a number of the older men withdrew from the council; that, however, he succeeded in having a majority of those assembled remain until another council had been arranged for September 14, on which latter date an agreement was reached.

The inspector refers to the minutes of the council proceedings transmitted with his report as showing the numerous questions raised by the Indians and his answers to their contentions; also, as showing that he finally convinced a number of the leading men of the wisdom of cooperating with him in formulating an agreement.

The inspector states that the land in Gregory County is without doubt the best and most desirable portion of the Rosebud Reservation, and that although the allotments embrace much of the choicest land, yet a great deal of good land remains unallotted. The whole tract, he says, is excellent grazing land, and the greater portion is

also good agricultural land, upon which excellent crops can be raised when there is sufficient rainfall during the growing season. He said he regards the compensation stipulated in the agreement as very reasonable and at the same time a fair and just price for the lands.

According to the inspector's report, the area of the portion of the Rosebud Reservation embraced in Gregory County is 521,050.24 acres, of which 104,909 acres have been allotted to 452 Indians, leaving 416,141.24 acres unallotted, which was stated in the agreement as approximating 416,000 acres, for a definite lump sum, at \$2.50 per acre, of \$1,040,000.

The inspector adds that the cession covers 160 acres reserved for the Ponca Creek issue station, 40 acres for the Ponca Creek Day School, 78.76 acres for the Catholic Mission, and two tracts of 80 and 40 acres, respectively, for the Congregational Mission—a total of 389.67 acres thus being reserved.

Respecting the disposition to be made of the proceeds arising from the cession, the inspector states that the stock cattle provided for by article 3 will be of great benefit to the Indians, who have such magnificent stock ranges upon their reservation, and that the cash payment for five years will aid the Indians materially in providing for their family needs during that time, after which the matured cattle, the increase from the stock issue to them, will be marketable and will with proper care give them an annual revenue thereafter. The inspector states that he was very desirous of having the agreement provide for the construction of dams and reservations on arid portions of the reservation, and also for the purchase of lumber for the construction of houses, and that both he and Agent McChesney endeavored by sound reasoning to have the Indian accept such provision, but to no purpose, they maintaining that those in need of dams could construct



the same themselves and those requiring lumber could purchase it with the money they received as their per capita payments.

They insisted that if lumber were provided for issue to the Indians an equal per capita distribution of it could not be made. The Indians insisted for a long time upon having the entire \$790,000 paid to them in case in one payment; but the inspector says he finally succeeded in getting their consent to its payment in five annual installments, which he says will approximate about \$30 per capita annually for five years.

The inspector transmits with his report a map, prepared by Special Allotting Agent W. A. Winder, of the portion of the reservation proposed to be ceded, which shows the several Indian allotments therein, with the names of the allottees, and also the unallotted portions; also a package of correspondence had with the State authorities of South Dakota relative to the boundaries of Gregory County, and the description of the eastern portion of the reservation.

In conclusion, the inspector states that he regards the compensation and manner of payment provided in the agreement as just and fair, both to the Indians and to the United States; that the manner of payment was the best, both for the Indians and for the Government, that the Indians would accept; that the stock cattle and the five annual cash payments will be of great benefit to the Indians in giving them a good start toward their self-support. He heartily recommends the approval and ratification of the agreement.

The agreement appears to be properly executed and inform for acceptance and ratification by Congress. It is deemed proper in this connection to refer especially to the provisions of article 4, which are evidently intended to fix the status of mixed-blood Indians upon that

reservation, and to insure the undisturbed residence thereon of white men intermarried with the Indians. It does not appear that this provision extends to mixed-bloods as a class any rights or benefits that they did not have before, unless possibly to secure rights to children born of a marriage since the enactment of the provision contained in the Indian Appropriation act of June 7, 1897 (30 Stat., P. 62), which reads as follows:

"That all children born of a marriage heretofore solemnized between a white man and Indian woman by blood and not by adoption, where said Indian woman is at this time, or was at the time of her death, recognized by the tribe, shall have the same rights and privileges to the property of the tribe to which the mother belongs, or belonged at the time of her death, by blood, as any other member of the tribe, and no prior act of Congress shall be construed as to bar such child of such right."

Respecting the residence of white men intermarried with Indian women, it may be proper to state that this right has always been extended in such cases and permitted so long as the conduct of such white men on the reservation is not detrimental to the peace and welfare of the Indians. The office sees no serious objection to the embodiment of this article in the agreement.

The compensation agreed upon for the land ceded, amounting to about \$2.50 per acre, is, in the judgment of this office and from the best information obtainable, fair and reasonable. Although it might have been better to have had the consent of the Indians to the disposition of a larger portion of the proceeds, under the direction of the Secretary of the Interior, for their benefit, it will be seen from the report of the inspector and the transcript of council proceedings that the Indians would not

consent to the distribution of any portion of the \$790,000 otherwise than in cash.

The office has accordingly prepared a draft of a bill embodying the agreement providing for the acceptance and ratification of the agreement. Section 2 of said draft provides for the appropriation of \$408,000, the amount necessary to carry the provisions of article 2 and 3 of the agreement into effect.

The matter of the disposition of the land ceded is one properly for the Department and the Commissioner of the General Land Office to arrange. It is suggested that such disposition may be provided by the addition of another section to the draft of the bill inclosed. In this connection it is suggested that the section added should provide for the disposition of the lands ceded, "excepting such tracts as may be reserved by the President, not exceeding 398.67 acres in all, for the subissue station, Indian day school, one Catholic mission, and two Congregational missions."

Besides the draft of the bill in duplicate, there are transmitted herewith two copies of the agreement, two copies of the council proceedings, two copies of correspondence had by Inspector McLaughlin with the State authorities of South Dakota respecting the boundaries of Gregory County, two blue prints of map, and two copies of this report, with the recommendation that one copy of each be transmitted to the Senate and House of Representatives, respectively, with request for favorable action on the agreement.

The original agreement and papers accompanying the same are transmitted herewith, with the request that they be returned to the files of this office when the same shall have served their purpose.

Very respectfully, your obedient servant,

W. A. JONES, *Commissioner.*

THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,

*Washington, D. C., December 3, 1901.*

SIR: I have the honor to acknowledge the receipt, by reference from you, of a report from the Commissioner of Indian Affairs, dated 23d ultimo, and accompanying draft of a bill to ratify an agreement thereto attached, dated September 14, 1901, with the Indians of the Rosebud Reservation, S. Dak., providing for the cession of the unallotted portion of their lands in Gregory County, S. Dak. You direct this office to add another section to the draft of the bill, providing for the disposal of the lands, and to report in triplicate.

In reply I have to state that, in view of the provisions of the "free homestead" act of May 17, 1900 (31 Stat., 179), and of the act of March 3, 1901 (31 Stat., 1093), providing for the disposal of lands recently opened to settlement and entry in Oklahoma, noting the reservations recommended by the Commissioner of Indian Affairs, and considering the price to be paid by the Government to the Indians for the lands acquired, I respectfully recommend that there be added to said bill the following section:

"SEC. 3. That the lands ceded to the United States under said agreement, excepting such tracts as may be reserved by the President, not exceeding three hundred and ninety-eight and sixty-seven one-hundredths acres in all, for subissue station, Indian day school, one Catholic mission, and two Congregational missions, shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make

entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish war, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the Act of March first, nineteen hundred and one, shall not be abridges: *And provided further*, That the price of said lands shall be two dollars and fifty cents per acre, but settlers under the homestead law, who shall reside upon and cultivate the land entered in good faith for the period required by existing law, shall be entitled to a patent for the lands so entered upon the payment to the local land officers of the usual fee and commissions, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry, except that the homestead settlers who commute their entries under section twenty-three hundred and one, Revised Statutes, shall pay for the land entered the price fixed herein."

Very respectfully,

BINGER HERMANN, *Commissioner*.

The SECRETARY OF THE INTERIOR.

---

[#5B]

(House of Representatives Report to accompany S. 2992)

[H. R. Report No. 2099, 57th Cong., 1st Sess. 1-4 (1902)]

# AGREEMENT WITH INDIANS OF ROSEBUD RESERVATION, S. DAK.

---

MAY 17, 1902.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

MR. BURKE, of South Dakota, from the Committee on Indians Affairs, submitted the following

## REPORT.

[To accompany S. 2992.]

The Committee on Indian Affairs, to whom was referred the bill (S. 2992) ratifying an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect, having had the same under consideration, recommend that the bill be amended by striking out all after the enacting clause and inserting the bill H. R. 9057 as reported to the House (Report No. 954).

The effect of this amendment is simply to substitute the House bill for the Senate bill, the only material difference in the bills being that the Senate bill contains a provision for "free homesteads," strikes out the clause relating to commutation, and has a provision (section 4)



providing that section 16 and 36 of the lands in each township shall not be subject to entry, but shall be reserved as school lands and granted the State of South Dakota. The opinion of the committee is that this section is not necessary, as under existing laws sections 16 and 36 would be granted to the State upon the extinguishment of the Indian title. Report of the committee (No. 954) on House Bill 9057 adopted as a substitute for the Senate bill, as before stated, is herewith submitted, as follows:

"The purpose of the bill is to ratify an agreement made with the Rosebud tribe of Indians in South Dakota by Indian Inspector James McLaughlin, dated September 14, 1901, providing for the cession to the United States of the unallotted portion of their lands embraced in Gregory County, S. Dak., and opening the land to settlement entry under the homestead and town-site laws.

The area of the reservation embraced in Gregory County proposed to be ceded under this agreement is 416,141.24 acres. There is 452 Indians holding allotments in the county, aggregating 104,999 acres. The price proposed to be paid for the lands to be ceded is \$2.50 per acre, making the amount to be paid for the cession \$1,040,000.

Two hundred and fifty thousand dollars of this amount is to be expended in the purchase of stock cattle for the benefit of the Indians, and the balance is to be paid per capita in cash in five equal annual installments.

The committee have amended the bill, striking out the provision relative to "free homesteads," thereby proposing to open the land to settlement under the homestead and town-site laws, and requiring the settlers to pay for the land at \$2.50 per acre, thus reimbursing the Government for the amount paid to the Indians.

As to the character of the lands proposed to be ceded and opened to settlement, and the benefits to be derived by the Indians by the sale of this portion of their reservation, the committee submits as part of its report a portion of the letter of the honorable Commissioner of Indian Affairs to the honorable Secretary of the Interior, under date of November 23, 1901, as follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
*Washington, November 23, 1901.*

SIR: The office has the honor to acknowledge the receipt of a letter dated October 11, 1901, from the Acting Secretary of the Interior, transmitting a report by United States Indian Inspector James McLaughlin, dated October 5, 1901, with which he inclosed an agreement dated September 14, 1901, with the Indians of the Rosebud Reservation, in South Dakota, providing for the cession of the unallotted portion of their lands embraced in Gregory County. In his said letter the Acting Secretary directed that if the office, after consideration, finds no objection to the approval of said agreement, proper report be prepared for presentation to Congress with a view to the ratification of the agreement.

The question of securing the cession of the lands referred to was first suggested during the first session of the Fifty-sixth Congress, when bills providing for negotiations to the end were introduced. Aside from the fact that the lands in question, which are not being used by the Indians, are very desirable for agricultural purposes, the main reason put forward for having the lands open up was that at the present time the larger portion of Gregory County was embraced in the Indian reserve, so that it was difficult for the remainder of the county to maintain the county organization.

The office has also had a great deal of correspondence with the people at large during the past two years in reference to the opening of said lands.

No Congressional authority for conducting negotiations, however, was granted until, by a provision contained in the last Indian appropriation act, approved March 3, 1901, the Secretary of the Interior was authorized, in his discretion, to negotiate through a United States Indian inspector with any Indians for the cession of portions of their respective reserves. Accordingly, under date of March 19, 1901, a draft of instructions was prepared by this office for the guidance of the United States Indian inspector conducting negotiations with the Rosebud Indians for the lands referred to. Said instructions were approved by the Department on March 21, 1901, and Inspector McLaughlin detailed for the duty of conducting negotiations.

\* \* \* \* \*

Article 1 of the agreement concluded by the inspector with said Indians provides that in consideration of the sum thereafter named the Indians cede to the United States all that portion of their reservation not allotted situated and lying east of the tenth guide meridian. Said guide meridian forms the township line between townships 73 and 74 west, and is also the west boundary line of Gregory County, so that the lands ceded embrace all of the Indian reservation not allotted situated in said county.

Article 2 stipulates that in consideration of the cession agreed to by article 1 of the agreement the United States will expend for and pay to the Rosebud Indians the sum of \$1,040,000.

Article 3 provides that \$250,000 shall be expended in the purchase of stock cattle of native range or graded Texas 2-year-old heifers and graded Durham or Hereford 2-year-old bulls for issue to said Indians, the same to be distributed as equally as possible among them men, women, and children as soon as practicable after ratification of the agreement.

This article further provides that the balance of the consideration, \$790,000, shall be paid to the Indians per capita in cash in five annual installments of \$158,000 each, the first of such cash payments to be made within four months after the ratification of the agreement.

Article 4 provides that all persons of the reservation who have received allotments and are now recognized as members of the tribe, belonging on the reservation, including mixed-bloods, whether their white blood comes from the paternal or maternal side, and the children born to them, shall enjoy the undisturbed and peaceable possession of their allotted lands, and shall be entitled to all rights and privileges enjoyed by full-blood Indians. This article further provides that white men theretofore lawfully intermarried into the tribe and now living with their families upon the reserve shall have the right of residence thereon not inconsistent with existing statutes.

Article 5 provides that nothing in the agreement shall be construed to deprive the Indians of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement.

Article 6 stipulates that the agreement shall not take effect and be in force until the same is accepted and ratified by the Congress of the United States.

The agreement is dated September 14, 1901 and contains the signature of James McLaughlin, United States Indian Inspector, and of 1,031 male adult Indians



of the reservation. A certificate dated October 4, 1901, by William Bordeaux, official interpreter, and William F. Schmidt, special interpreter, is appended to the agreement to the effect that the provisions thereof were fully explained by them to the Indians in open council, that is was fully understood by them before signing, and that the signatures, though the names are similar in some cases, represent different individuals in each instance, as indicated by their respective ages.

\* \* \* \* \*

A certificate dated October 4, by United States Indian Agent Charles E. McChesney, is also attached, stating that the total number of male adult Indians over 18 years of age belonging on the reservation is 1,359, of whom 1,031 have signed the agreement, being 12 more than three-fourths of the male adult population of the reservation.

Having been unable to get the Indians to fix a price upon the lands in his first councils with them, the inspector states that in the council held September 12 he made them a flat offer of \$2.50 per acre for the tract, stating that this was double the minimum price of Government lands and full value for their unallotted lands in Gregory County; that while he regarded the land worth that amount, it was all that it was worth, and that his offer would not be increased; whereupon a number of the older men withdrew from the council; that, however, he succeeded in having a majority of those assembled remain until another council had been arranged for September 14, on which latter date an agreement was reached.\* \* \*

The inspector states that the land in Gregory County is without doubt the best and most desirable portion of the Rosebud Reservation, and that although the allotments

embrace much of the choicest land, yet a great deal of good land remains unallotted. The whole tract, he says, is excellent grazing land and the greater portion is also good agricultural land upon which excellent crops can be raised when there is sufficient rainfall during the growing season. He says he regards the compensation stipulated in the agreement as very reasonable and at the same time a fair and just price for the lands.

According to the inspector's report, the area of the portion of the Rosebud Reservation embraced in Gregory County is 521, 050.24 acres, of which 104, 909 acres have been allotted to 452 Indians, leaving 416,141.24 acres unallotted, which was stated in the agreement as approximating 416,000 acres, for a definite lump sum, at \$2.50 per acre, or \$1,050,000.

The inspector adds that the cession covers 160 acres reserved for the Ponca Creek issue station, 40 acres for the Ponca Creek Day School, 78.76 acres for the Catholic Mission, and two tracts of 80 and 40 acres respectively, for the Congregational Mission—a total of 398.67 acres thus being reserved.

Respecting the disposition to be made of the proceeds arising from the cession, the inspector states that the stock cattle provided for by article 3 will be of great benefit of the Indians, who have such magnificent stock ranges upon their reservation, and that the cash payment for five years will aid the Indians materially in providing for their family needs during that time, after which the matured cattle, the increase from the stock issue to them, will be marketable and will with proper care give them an annual revenue thereafter. The inspector states that he was very desirous of having the agreement provide for the construction of dams and reservoirs on arid portions of the reservation, and also for the purchase of lumber for the construction of houses, and that both he and Agent



McChesney endeavored by sound reasoning to have the Indians accept such provision, but to no purpose, they maintaining that those in need of dams could construct the same themselves, and those requiring lumber could purchase it with the money they receive as their per capita payments.

They insisted that if lumber were provided for issue to the Indians an equal per capita distribution of it could not be made. The Indians insisted for a long time upon having the entire \$790,000 paid to them in cash in one payment; but the inspector says he finally succeeded in getting their consent to its payment in five annual installments, which he says will approximate about \$30 per capita annually for five years.

\* \* \* \* \*

In conclusion, the inspector states that he regards the compensation and manner of payment provided in the agreement as just fair, both to the Indians and to the United States; that the manner of payment was the best, both for the Indians and for the Government, that the Indians would accept; that the stock cattle and the five annual cash payments will be of great benefit to the Indians in giving them a good start toward their self-support. He heartily recommends the approval and ratification of the agreement. \* \* \*

The compensation agreed upon for the land ceded, amounting to about \$2.50 per acre, is, in the judgment of this office and from the best information obtainable, fair and reasonable. Although it might have been better to have had the consent of the Indians to the disposition of a larger portion of the proceeds, under the direction of the Secretary of the Interior, for their benefit, it will be seen from the report of the inspector and the transcript

of council proceedings that the Indians would not consent to the distribution of any portion of the \$790,000 otherwise than in cash.

The office has accordingly prepared a draft of a bill embodying the agreement providing for the acceptance and ratification of the agreement. Section 2 of said draft provides for the appropriation of \$408,000, the amount necessary to carry the provisions of article 2 and 3 of the agreement into effect. \* \* \*

W. A. JONES, *Commissioner.*

The SECRETARY OF THE INTERIOR.

The bill has the approval of the Department, as will appear by letter dated December 6, 1901, from the honorable Secretary of the Interior, which letter is as follows:

DEPARTMENT OF THE INTERIOR,

*Washington, December 6, 1901.*

SIR: I have the honor to transmit herewith a copy of a report of the Commissioner of Indian Affairs, dated 23d ultimo, and accompanying copy of an agreement, dated September 14, 1901, between United States Indian Inspector James McLaughlin and the Indians of the Rosebud Reservation, S. Dak., providing for the cession to the United States of the unallotted portion of their lands embraced in Gregory County, S. Dak., with the draft of a bill prepared by the Commissioner of Indian Affairs and the Commissioner of the General Land Office, ratifying the agreement, and accompanying papers.

This agreement has been carefully considered by the Commissioner of Indian Affairs, and as it seems fair and reasonable, and the terms the best that could be

obtained, I have the honor to recommend that it receive favorable action by the Congress.

Very respectfully,

E. A. HITCHCOCK,  
*Secretary.*

The PRESIDENT PRO TEMPORE UNITED STATES  
SENATE.

---

[#6]

(Legislative history of H.R. 9057, 57th Cong., 1st Sess. (1902); the House of Representative companion bill to S. 2992, a bill to ratify agreement with Sioux Indians for cession of certain lands of the Rosebud Reservation.)

[35 Cong. Rec. 377 (1901-1902)]

*Rosebud Reservation:* bills to ratify agreement with Indians on (see bills S. 2992; H.R. 9057).

---

[35 Cong. Rec. 412 (1901-1902)]

H. R. 9057— To ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation to carry the same into effect.

Mr. Burke of South Dakota: Committee on Indian Affairs 680.—Reported back with amendment (H. R. REPORT 954) 2814.

---

[35 Cong. Rec. 680 (1902)]

By Mr. BURKE of South Dakota: A bill (N. R. 9057) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation to carry the same into effect—to the Committee on Indian Affairs.

---

[35 Cong. Rec. 2814 (1902)]

Mr. BURKE of South Dakota, from the Committee on Indian Affairs, to which was referred the Bill of the House (H. R. 9057) to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect, reported the same with amendments, accompanied by a report (No. 954); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

---

[#6A]

(House of Representative Report to accompany H. R. 9057)

[H. R. Rep. No. 954, 57th Cong, 1st Sess. 1-4 (1902)]

AGREEMENT WITH INDIANS OF ROSEBUD  
RESERVATION, S. DAK.

---

MARCH 14, 1902.— Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

---

Mr. BURKE, of South Dakota, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany H. R. 9057.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 9057) ratifying an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation to carry the same into effect, having had the same under consideration, submit the following report and recommend that the bill do pass with the following amendments:

In section 3, page 6, strike out all lines 17, 18, 19, 20, 21, 22, 23, and words "his entry" in line 24.

In line 24 strike out the word "who" and insert "may."



In line 26 strike out the words "shall pay for" and insert the words "by paying for."

The purpose of the bill is to ratify an agreement made with the Rosebud tribe of Indians in South Dakota by Indian Inspector James McLaughlin, dated September 14, 1901, providing for the cession to the United States of the unallotted portion of their lands embraced in Gregory County, S. Dak., and opening the land to settlement and entry under the homestead and town-site laws.

The area of the reservation embraced in Gregory County proposed to be ceded under this agreement is 416,141.24 acres. There are 452 Indians holding allotments in the county, aggregating 104,999 acres. The price proposed to be paid for the lands to be ceded is \$2.50 per acre, making the amount to be paid for the cession \$1,040,000.

Two hundred and fifty thousand dollars of this amount is to be expended in the purchase of stock cattle for the benefit of the Indians, and the balance is to be paid per capita in cash in five equal annual installments.

The committee have amended the bill, striking out the provision relative to "free homesteads," thereby proposing to open the land to settlement under the homestead and town-site laws, and requiring the settlers to pay for the land at \$2.50 per acre, thus reimbursing the Government for the amount paid to the Indians.

As to the character of the lands proposed to be ceded and opened to settlement, and the benefits to be derived by the Indians by the sale of this portion of their reservation, the committee submits as a part of its report a portion of the letter of the honorable Commissioner of Indian Affairs to the honorable Secretary of the Interior, under date of November 23, 1901, as follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
*Washington, November 23, 1901.*

SIR: The office has the honor to acknowledge the receipt of a letter dated October 11, 1901, from the Acting Secretary of the Interior, transmitting a report by United States Indian Inspector James McLaughlin, dated October 5, 1901, with which he inclosed an agreement dated September 14, 1901, with the Indians of the Rosebud Reservation, in South Dakota, providing for the cession of the unallotted portion of their lands embraced in Gregory County. In his said letter the Acting Secretary directed that if the office, after consideration, finds no objection to the approval of said agreement, proper report to be prepared for presentation to Congress with a view to the ratification of the agreement.

The question of securing the cession of the lands referred to was first suggested during the first session of the Fifty-sixth Congress, when bills providing for negotiations to that end were introduced. Aside from the fact that the lands in question, which are not being used by the Indians, are very desirable for agricultural purposes, the main reason put forward for having the lands open up was that at the present time the larger portion of Gregory County was embraced in the Indian reserve, so that it was difficult for the remainder of the country to maintain the county organization.

The office has also had a great deal of correspondence with the people at large during the past two years in reference to the opening of said lands.

No Congressional authority for conducting negotiations, however, was granted until, by a provision contained in the last Indian appropriation act, approved March 3, 1901, the Secretary of the Interior was

authorized, in his discretion, to negotiate through a United States Indian inspector with any Indians for the cession of portions of their respective reserves. Accordingly, under date of March 19, 1901, a draft of instructions was prepared by this office for the guidance of the United States Indian inspector conducting negotiations with the Rosebud Indians for the lands referred to. Said instructions were approved by the Department in March 21, 1901, and Inspector McLaughlin detailed for the for the duty of conducting negotiations.

\* \* \* \* \*

Article 1 of the agreement concluded by the inspector with said Indians provides that in consideration of the sum thereafter named the Indians cede to the United States all that portion of their reservation not allotted situated and lying east of the tenth guide meridian. Said guide meridian forms the township line between townships 73 and 74 west, and also the west boundary line of Gregory County, so that the lands ceded embrace all of the Indian reservation not allotted situated in said county.

Article 2 stipulates that in consideration of the cession agreed by articles 1 of the agreement the United States will expend for and pay to the Rosebud Indians the sum of \$1,040,000.

Article 3 provides that \$250,000 shall be expended in the purchase of stock cattle of native range or graded Texas 2-year-old heifers and graded Durham or Hereford 2-year-old bulls for issue to said Indians, the same to be distributed as equally as possible among the men, women, and children as soon as practicable after ratification of the agreement.

This article further provides that the balance of the consideration, \$790,000, shall be paid to the Indians per capita in cash in five annual installments of \$158,000 each, the first of such cash payments to be made within four months after the ratification of the agreement.

Article 4 provides that all persons of the reservation who have received allotments and are now recognized as members of the tribe, belonging on the reservation, including mixed-bloods, whether their white blood comes from the paternal or maternal side, and the children born to them, shall enjoy the undisturbed and peaceable possession of their allotted lands, and shall be entitled to all the rights and privileges enjoyed by full-blood Indians. This article further provides that white men theretofore lawfully intermarried into the tribe and now living with their families upon the reserve shall have the right of residence thereon not inconsistent with existing statutes.

Article 5 provides that nothing in the agreement shall be construed to deprive the Indians of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement.

Article 6 stipulates that the agreement shall not take effect and be in force until the same is accepted and ratified by the Congress of the United States.

The agreement is dated September 14, 1901, and contains the signatures of James McLaughlin, United States Indian Inspector, and of 1,031 male adult Indians of the reservation. A certificate dated October 4, 1901, by William Bordeaux, official interpreter, and William F. Schmidt, special interpreter, is appended to the agreement to the effect that the provisions thereof were fully explained by them to the Indians in open council, that it was fully understood by them before signing, and that the signatures, though the names are similar in some



cases, represent different individuals in each instance, as indicated by their respective ages.

\* \* \* \* \*

A certificate dated October 4, by United States Indian Agent Charles E. McChesney, is also attached, stating that the total number of male adult Indians over 18 years of age belonging on the reservation is 1,359, of whom 1,031 have signed the agreement, being 12 more than three-fourths of the male adult population of the reservation.

Having been unable to get the Indians to fix a price upon the lands in his first councils with them, the inspector states that in the council held September 12 he made them a flat offer of \$2.50 per acre for the tract, stating that this was double the minimum price of Government lands and full value for their unallotted lands in Gregory County; that while he regarded the land worth that amount, it was all that it was worth, and that his offer would not be increased; whereupon a number of the older men withdrew from the council; that, however, he succeeded in having a majority of those assembled remain until another council had been arranged for September 14, on which latter date an agreement was reached.\* \* \*

The inspector states that the land in Gregory County is without doubt the best and most desirable portion of the Rosebud Reservation, and that although the allotments embrace much of the choicest land, yet a great deal of good land remains unallotted. The whole tract, he says, is excellent grazing land and the greater portion is also good agricultural land upon which excellent crops can be raised when there is sufficient rainfall during the growing season. He says he regards the compensation stipulated in the agreement as very reasonable and at the same time a fair and just price for the lands.

According to the inspector's report the area of the portion of the Rosebud Reservation embraced in Gregory County is 521,050.24 acres, of which 104,909 acres have been allotted to 452 Indians, leaving 416,141.24 acres unallotted, which was states in the agreement as approximating 416,000 acres, for a definite lump sum, at \$2.50 per acre, of \$1,040,000.

The inspector adds that the cession covers 160 acres reserved for the Ponca Creek issue station, 40 acres for the Ponca Creek Day School, 78.76 acres for the Catholic Mission, and two tracts of 80 and 40 acres, respectively, for the Congregational Mission—a total of 398.67 acres thus being reserved.

Respecting the disposition to be made of the proceeds arising from the cession, the inspector states that the stock cattle provided for by article 3 will be of great benefit to the Indians, who have such magnificent stock ranges upon their reservation, and that the case payment for five years will aid the Indians materially in providing for their family needs during that time, after which the matured cattle, the increase from the stock issued to them, will be marketable and will with proper care give them an annual revenue thereafter. The inspector states that he was very desirous of having the agreement provide for the construction of dams and reservoirs on arid portions of the reservation, and also for the purchase of lumber for the construction of houses, and that both he and Agent McChesney endeavored by sound reasoning to have the Indians accept such provisions, but to no purpose, they maintaining that those in need of dams could construct the same themselves, and those requiring lumber could purchase it with the money they received as their per capita payments.

They insisted that if lumber were provided for issue to the Indians an equal per capita distribution of it could



not be made. The Indians insisted for a long time upon having the entire \$790,000 paid to them in cash in one payment; but the inspector says he finally succeeded in getting their consent to its payment in five annual installments, which he says will approximate about \$30 per capita annually for five years.

\* \* \* \* \*

In conclusion, the inspector states that he regards the compensation and manner of payment provided in the agreement as just and fair, both to the Indians and to the United States; that the manner of payment was the best, both for the Indians and for the Government, that the Indians would accept; that the stock cattle and the five annual cash payments will be of great benefit to the Indians in giving them a good start toward their self-support. He heartily recommends the approval and ratification of the agreement. \* \* \*

The compensation agreed upon for the land ceded, amounting to about \$2.50 per acre, is, in the judgment of this office and from the best information obtainable, fair and reasonable. Although it might have been better to have had the consent of the Indians to the disposition of a larger portion of the proceeds, under the direction of the Secretary of the Interior, for their benefit, it will be seen from the report of the inspector and the transcript of council proceedings that the Indians would not consent to the distribution of any portion of the \$790,000 otherwise than in cash.

The office accordingly prepared a draft of a bill embodying the agreement providing for the acceptance and ratification of the agreement. Section 2 of said draft provides for the appropriation of \$408,000, the amount

necessary to carry the provisions of articles 2 and 3 of the agreement into effect. \* \* \*

W. A. JONES, *Commissioner.*

The SECRETARY OF THE INTERIOR.

The bill has the approval of the Department, as will appear by letter dated December 6, 1901, from the honorable Secretary of the Interior, which letter is as follows:

DEPARTMENT OF THE INTERIOR,

*Washington, December 6, 1901.*

SIR: I have the honor to transmit herewith a copy of a report of the Commissioner of Indian Affairs, dated the 23d ultimo, and accompanying copy of an agreement, dated September 14, 1901, between United States Indian Inspector James McLaughlin and the Indians of the Rosebud Reservation, S. Dak., providing for the cession to the United States of the unallotted portions of their lands embraced in Gregory County, S. Dak., with the draft of a bill prepared by the Commissioner of Indian Affairs and the Commission of the General Land Office, ratifying the agreement, and accompanying papers.

This agreement has been carefully considered by the Commissioner of Indian Affairs, and as it seems fair and reasonable, and the terms the best that could be obtained, I have the honor to recommend that it receive favorable action by the Congress.

Very respectfully

E. A. HITCHCOCK,

*Secretary.*

The PRESIDENT PRO TEMPORE UNITED STATES SENATE.

[#7]

(Legislative history of S. Doc. 31, 57th Cong. 1st. Sess.—A letter of the Secretary of the Interior transmitting agreement with Sioux Indians providing for the cession to the U.S. of a portion of the Rosebud Reservation.)

[35 Cong. Rec. 377 (1901-1902)]

*Rosebud Reservation: \* \* \**

letter of Secretary of Interior transmitting agreement with Indians on (S. Doc. 31) 206, 245, 1279.

---

[35 Cong. Rec. 245 (1901)]

A letter from the Secretary of the Interior, transmitting a copy of the report of the Commissioner of Indian Affairs, with copy of an agreement with the Rosebud Indians and the draft of a bill—to the Committee on Indian Affairs, and ordered to be printed.

---

[35 Cong. Rec. 206 (1901)]

INDIAN LANDS IN GREGORY  
COUNTY. S. DAK.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting a report from the Commissioner of Indian Affairs, together with an agreement, dated September 14, 1901, between United States Indian Inspector James

McLaughlin and the Indians of the Rosebud Reservation, S. Dak., providing for a cession to the United States of the unallotted portion of their lands embraced in Gregory County, S. Dak., together with the draft of a bill prepared by the Commissioner of Indian Affairs and the Commissioner of the General Land Office ratifying the agreement; which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

---

[35 Cong. Rec. 1279 (1902)]

AGREEMENT WITH INDIANS OF ROSEBUD  
AGENCY, S. DAK.

Mr. GAMBLE. Senate Document No. 31, Fifty-seventh Congress, first session, being a letter from the Secretary of the Interior transmitting the report of the Commissioner of Indian Affairs upon a certain agreement with Indians of the Rosebud Agency, S. Dak., was submitted December 9, 1901, and ordered to be printed and lie on the table. A bill is now pending in the Senate for the ratification of that treaty, and it is before the Committee on Indian Affairs. I move that that report be referred to the Committee on Indian Affairs.

The motion was agreed to.

---

[#7A]

[S. Doc. No. 31, 57th Cong. 1st Sess. 1-43 (1901)]

(Copy of agreement of Sept 14, 1901 between U.S. Indian Inspector J. McLaughlin & the Indians of the Rosebud Reservation, S. Dak., providing for the cession to the U.S. of a portion of said reservation.)

AGREEMENT WITH THE INDIANS OF  
ROSEBUD AGENCY, S. DAK.

---

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

THE REPORT OF THE COMMISSIONER OF INDIAN AFFAIRS ACCOMPANYING COPY OF AN AGREEMENT, DATED SEPTEMBER 14, 1901, BETWEEN UNITED STATES INDIAN INSPECTOR JAMES McLAUGHLIN AND THE INDIANS OF THE ROSEBUD RESERVATION, S. DAK.

---

DECEMBER 9, 1901.—Ordered to be printed and lie on the table.

---

DEPARTMENT OF THE INTERIOR,

*Washington, December 6, 1901.*

SIR: I have the honor to transmit herewith a copy of a report of the Commissioner of Indian affairs, dated 23d ultimo, and accompanying copy of an agreement, dated September 14, 1901, between United States Indian Inspector James McLaughlin and the Indians of the Rosebud Reservation, S. Dak., providing for the cession of the United States of the unallotted portion of their lands embraced in Gregory County, S. Dak., with the draft of a bill prepared by the Commissioner of Indian Affairs and the Commissioner of the General Land Office, ratifying the agreement, and accompanying papers.

This agreement has been carefully considered by the Commissioner of Indian Affairs, and as it seems fair and reasonable, and the terms the best that could be obtained, I have the honor to recommend that it receive favorable action by the Congress.

Very respectfully,

E. A. HITCHCOCK,  
*Secretary*

The PRESIDENT PRO TEMPORE, UNITED STATES SENATE.

DEPARTMENT OF THE INTERIOR,

*Washington, October 11, 1901.*

SIR: I inclose herewith for your consideration a report by United States Indian Inspector James McLaughlin, dated October 5, 1901, submitting an agreement concluded with the Rosebud Indians for the cession of their unallotted lands in Gregory County, S. Dak.

If, after consideration by your office, no objection to its approval is found, you will please cause proper report to be prepared for presentation to Congress, with a view



to the ratification of the said agreement, together with the necessary estimate of appropriation for carrying the same into effect.

Very respectfully, F. L. CAMPBELL, *Acting Secretary*.  
The COMMISSIONER ON INDIAN AFFAIRS.

---

DEPARTMENT OF THE INTERIOR,  
UNITED STATES INDIAN SERVICE,  
*Rosebud Agency, S. Dak., April 6, 1901.*

DEAR SIR: I am here to negotiate with the Indians of the Rosebud Agency for the cession of the unallotted portion of their reservation situated in Gregory County, S. Dak., and in order to ascertain the number of acres in the tract proposed to be ceded it is necessary for me to know definitely the present boundaries of Gregory County, and therefore apply to you for the desired information.

The western boundary of Gregory County, as shown by the map of South Dakota furnished me by the Department for my information in the premises, is the line between ranges 73 and 74, and the northern boundary is the township line between townships 99 and 100 north, while Carter's edition of the laws of South Dakota for 1897, a copy of which is on file at this agency, gives the northern boundary of said county as the line between townships 100 and 101, extending from the Missouri River west to its intersection with the tenth guide meridian, which, as shown by the map, is also the line between ranges 73 and 74.

I would also respectfully request that you advise me as to the northern boundary of the Rosebud Indian Reservation at that point with reference to the southern boundary of Lyman County, whether or not there is a

strip along the southern border of Lyman County within the Rosebud Reservation, as appears to be the case from the reservation boundaries as described in the Sioux agreement of 1889 (act of Marcy 2, 1889).

If the northern boundary of Gregory County is now on a line with the south line of Brule County (if extended) as it existed in 1889, there is no Indian reservation north of the south line of Lyman County, provided the said southern boundary is the township line between towns 100 and 101, instead of between townships 99 and 100, as shown by the maps furnished me.

I desire this information so that should an agreement be concluded with the Indians, it may be made to include any strip that might be in the southern portion of Lyman County north of the Gregory County line from the Missouri River west to the tenth guide meridian, which is also the line between ranges 73 and 74. It is not desirable that any small strip which would remain as a barrier to settlement at that point be left unceded. Hence my desire for information regarding same.

Please advise me at Rosebud Agency, S. Dak., regarding the above at your earliest convenience, and very much oblige.

Yours, very respectfully, JAMES McLAUGHLIN,  
*United States Indian Inspector.*  
The SECRETARY OF STATE FOR SOUTH DAKOTA,

*Pierre, S. Dak.*

---

PIERRE, *April 10, 1901.*

SIR; Yours of 6th instant to our secretary of state, making inquiries as to the boundary line of Gregory County, has been handed to me by the secretary. In reply

thereto would say the northern boundary line of Gregory County as shown by Carter's edition of our session laws, which you mention, is in accordance with the laws of 1897 and shows the correct boundary of the county—that is, the northern boundary line is on the township line between 100 and 101 and the western boundary line the line between ranges 72 and 73. This leaves no part of Lyman County within the Rosebud Indian Reservation south of the township line between townships 100 and 101. We have a United States Government map in the office under date of 1892 which gives the northern boundary line of Gregory County to be the township line between townships 99 and 100; but the laws of 1897, as I have before explained to you, changes this line and places it 6 miles farther north.

Yours, respectfully, D. EASTMAN,  
*Commissioner of School and Public Lands.*  
 Major McLAUGHLIN,  
*United States Indian Inspector, Rosebud Agency, S. Dak.*

---

DEPARTMENT OF THE INTERIOR,  
 UNITED STATES INDIAN SERVICE,  
*Rosebud Agency, S. Dak., April 19, 1901.*

SIR: Your favor of the 10th instant is received, and being of the opinion that there is a clerical error in the description of the western boundary of Gregory County as therein given, I respectfully request that you advise me further regarding same.

Your letter gives the range line between ranges 72 and 73 as the western boundary of Gregory County, while Cartes's edition of the laws of South Dakota for 1897 gives the boundaries as follows:

“SEC. 1. That Gregory County shall be bounded as follows: Beginning at the intersection of the Missouri River by township line between townships one hundred and hundred and one; thence west on said township line to its intersection with the tenth guide meridian; thence south on said guide meridian to the south boundary line of the State; thence east on said boundary line to the Missouri River; thence up the center of the main channel of said river to the point of beginning.”

The tenth guide meridian from the Nebraska State line through to the line between townships 100 and 101, as shown by the maps of South Dakota, is the line between ranges 73 and 74; and desiring to have any agreement that I may conclude with the Indians for their Gregory County Islands embrace all the unallotted portion of their reservation which is situated in Gregory County, I must, therefore, be prepared to give an accurate description of the tract ceded.

Please advise me regarding the boundaries, so that I may know exact lines as they now exist.

Very respectfully, JAMES McLAUGHLIN,  
*United States Indian Inspector.*

Hon. DAVID EASTMAN,  
*Commissioner of School and Public Lands, Pierre, S. Dak.*

---

PIERRE, April 23, 1901.

DEAR SIR: From the maps of our office I understand that the tenth guide meridian in Gregory County is on the line between ranges 72 and 73, which guide meridian north of township line between townships 100 and 101 jogs about 4 miles west, not on any township line.

However, this information I obtain only from the maps in our office. I have forwarded your letter to the surveyor-general, at Huron, who, it seems to me, must be able to furnish you the exact information you desire, and have requested him to write you.

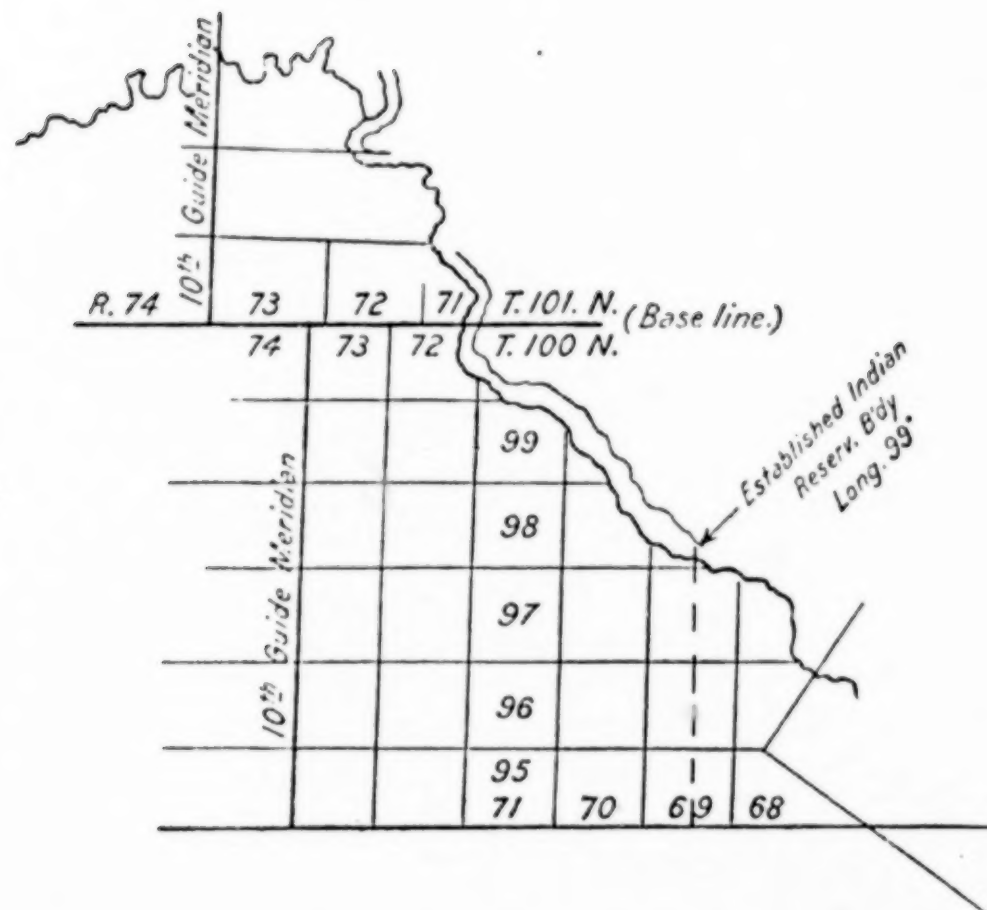
Yours, respectfully,

D. EASTMAN,

*Commissioner of School and Public Lands.*

Hon. JAMES McLAUGHLIN,

*Rosebud Agency, S. Dak.*



DEPARTMENT OF THE INTERIOR,  
OFFICE OF UNITED STATES  
SURVEYOR-GENERAL,

*Huron, S. Dak., April 24, 1901.*

SIR: Mr. David Eastman, State commissioner of schools and public lands, has referred to me your letter to him, dated April 19, 1901, relative to the west boundary of Gregory County.

In answer for him I have the pleasure to say that the description recited in your letter is still correct, no change having been made in the cessions of 1899 or 1901; and the tenth guide meridian, which is the line between ranges 73 and 74, still remains the west boundary of Gregory County.

The inclosed sketch shows that the tenth guide meridian south of the so-called "base line" (line between townships 100 and 101) is 4 miles 41.13 chains east of the portion of the same guide meridian which is north of that base line. This "jog" in the surveys probably misled Mr. Eastman in stating the numbers of the ranges.

Very respectfully,

FRANK A. MORRIS, *Surveyor-General.*

Maj. JAMES McLAUGHLIN,

*United States Indian Inspector, Rosebud Agency, S.*

DEPARTMENT OF THE INTERIOR,  
UNITED STATES INDIAN SERVICE,  
*Rosebud Agency, S. Dak., October 5, 1901.*

SIR: Under instructions contained in Department letters of the respective dates of March 21 and May 21 last, and Indian Office inclosures, I have the honor to transmit herewith an agreement, dated September 14, 1901, entered into by me, as United States Indian



inspector, on the part of the United States, with the Indians of the Rosebud Agency, S. Dak., by which the said Indians cede to the United States their surplus or unallotted lands lying within the boundaries of Gregory County, S. Dak., approximating 416,000 acres, for a consideration of \$1,040,000.

I arrived at the Rosebud Agency on April 2 last, with the view of entering upon negotiations with the Indians for the desired cession, but upon my arrival at the agency and ascertaining that smallpox was prevalent on the reservation I deemed it unadvisable to assemble the Indians in general council to discuss the matter at that time, as an assembly of the Indians from all parts of the reservation would add materially to the danger of spreading the disease, which was then epidemic in several of the camps. I, however, made a trip to the Ponca Creek district Indian settlement, which is in Gregory County, S. Dak., about 100 miles east of the agency, for the purpose of examining the lands in question and to meet and talk with the Indians of that district, they being the most affected by the cession, provided their unallotted lands in Gregory County should be opened to settlement, as such cession would bring the Ponca Creek Indians into direct contact with the whites locating upon the ceded lands.

During the said trip I traveled over the greater portion of the reservation embraced by Gregory County, and thus obtained a pretty thorough knowledge of the character of the country and quality of and value of the land, and upon my return to the agency on April 18 reported the result of my trip and recommended the postponement of negotiations until smallpox and other conditions were more favorable, which recommendation was approved, and I proceeded to carry out other orders in the meantime.

I returned to Rosebud Agency on August 28 last, as directed by Department telegram of August 15, and at once entered upon negotiations, which, though somewhat protracted and at times discouraging, have been satisfactorily concluded.

When first assigned to this work I had grave doubts of the Indians consenting to the cession of that portion of their reservation; but, after my visit to the agency last April and talking the matter over with a number of them, I became satisfied that an agreement could eventually be reached provided the compensation and manner of payment could be agreed upon, as the Indians of the western portion of the reservation were not actively opposed to the cession, but held the land at a very high price.

Upon my arrival at the agency on the 28th of August last the Indians were notified to meet me in general council on Thursday, September 5, for consideration of the matter, this length of time between notification and date of holding the council being necessary to enable the Indians to reach the agency from the outlying settlements.

I was greatly handicapped in the beginning by the fact that most of the Indians disposed to entertain a proposition for the cession of said tract held the lands at an enormous price—from \$7 to \$15 per acre—with only a few who expressed themselves as willing to accept as low as \$5 per acre; this in cash and all at one payment. And upon my arrival every white man connected with the agency and those of the surrounding country with whom I talked regarding the matter held the lands in question as worth \$5 an acre; that adjacent lands in Gregory County, S. Dak., and Hoyt County, Nebr., were selling at from \$5 to \$10 an acre; that a syndicate of cattlemen in Sioux City, Iowa, were willing to pay \$5 per acre for the entire

tract, and these current rumors and fictitious values placed upon the lands being circulated among the Indians exercised them very much, and had to be overcome by reasoning, which required time and a great amount of patience.

At my first council, on September 5, I informed the Indians of the desire of the Government for the cession of their surplus lands in Gregory County, explaining to them that they did not need those unallotted tracts and were deriving no revenue therefrom, the proceeds of which, if ceded to the Government, would be of great benefit to them in providing for their present and future needs.

After my explanation of the matter the Indians asked for an adjournment of the council that they might consider the question among themselves, which adjournment was granted, and they did not return until Tuesday, September 10, whereupon they notified me of their refusal to consider any proposition whatsoever for the cession of said tract. I prevailed upon them, however, to consider the matter further and meet me again in council on Thursday, September 12, upon which latter date, finding them still unwilling to dispose of the land or set any price upon it, I made them a flat offer of \$2.50 an acre for the tract, telling them that this was double the minimum price of Government lands and full value for their unallotted lands in Gregory County, and that while I regarded the land worth \$2.50 per acre, it was all that it was worth, and that I would not increase the offer, whereupon a number of the older men withdrew from the council; but I succeeded in having a majority of those who had assembled remain until we arranged for another council, to be held on Saturday, September 14, on which latter date an agreement was reached. The minutes of several councils, consisting of 52 typewritten pages,

transmitted herewith, show the many questions raised and objections of the Indians, also my answers to their numerous contentions, until I finally succeeded in having a number of the leading men see the wisdom of cooperating with me in formulating an agreement.

The land in Gregory County is without doubt the best and most desirable portion of the Rosebud Reservation, and although the Indian allotments comprise much of the choicest lands, yet a great deal of good land remains unallotted. The whole tract is excellent grazing land, and the greater portion is good agricultural land, upon which excellent crops can be raised when there is sufficient rainfall during the growing season, and I regard the compensation stipulated in the agreement as very reasonable and at the same time a fair and just price for the lands.

Gregory County embraces 521,050.24 acres of the Rosebud Indian Reservation, upon which 452 allotments, aggregating 104,909 acres, have been made, leaving 416,141.24 acres unallotted, which is covered by the cession and stated in the agreement "as approximating 416,000 acres" for a definite lump sum, practically \$2.50 per acre.

The cession covers 160 acres reserved for the Ponca Creek issue station, 40 acres for the Ponca Creek day School (the latter now abandoned), 78.76 acres to the Catholic Mission, and two tracts of 80 and 40 acres, respectively, to the Congregational mission—a total of 398.67 acres thus reserved, which is included in the unallotted tract ceded.

The stock cattle provided for by Article III of the agreement will be of great benefit to the Rosebud Indians, who have such magnificent stock ranges upon their reservation, and the cash payment for five years will aid them materially in providing for their family needs



for that period, after which the matured cattle, increase from the stock issued to them, will be marketable, and with proper care will give them an annual revenue thereafter.

I was very desirous of having the agreement provide for the construction of dams and reservoirs on arid portions of their reservation; also for the purchase of lumber for the construction of houses, and both myself and Agent McChesney endeavored, by sound reasoning, to have the Indians accept such provisions; but they would not consent to it, they maintaining that those in need of dams and reservoirs could construct such themselves, and those requiring lumber could purchase it with the money when they receive their respective per capita shares; that if lumber was provided for issue to the Indians an equal per capita distribution it could not be made, but that by receiving money each could thus receive their proportionate share and could then purchase what they stood most in need of.

They insisted for a long time upon having the entire \$790,000 cash payment paid to them in one payment, but I finally succeeded in having them accept it in five annual installments of \$158,000 each, which, with the present number of Indians belonging on the reservation, will approximate about \$30 per capita annually for five years.

I forward by this mail, in a separate package, a map, which I had prepared by Allotting Agent W. A. Winder, of that portion of the Rosebud Reservation embraced in Gregory County, S. Dak., which shows the Indian allotments up to date, and names of the allottees within the ceded territory; also the unallotted portions.

I transmit herewith (Exhibit No. 3) package of correspondence with certain State officials of South Dakota relative to the boundaries of Gregory County, S.

Dak., as at present defined and organized, which shows that the boundaries of the tract ceded by Article I of the agreement are correctly described therein.

In conclusion, I desire to state that I regard the compensation and manner of payment provided as just and fair both to the Indians and to the United States; that the price stipulated in the agreement is fair compensation of the lands, but no more than they are worth; that the manner of payment was the best, both for the Indians and the Government, that the Indians would accept; that the stock cattle and five annual cash payments, approximating \$30 per capita, will be of great benefit to the Indians in giving them a good start toward their self-support, and I most heartily recommend approval and ratification of the agreement.

In closing, I desire to acknowledge the valuable assistance rendered me by Agent McChesney in obtaining the required number of signatures (over a three fourths majority) after the agreement was reached; also his earnest cooperation throughout the negotiations.

I am, sir, very respectfully, your obedient servant,

JAMES McLAUGHLIN,

*United States Indian Inspector.*

The SECRETARY OF THE INTERIOR,

*Washington, D.C.*

---

*Proceedings of a council held by James McLaughlin, United States Indian inspector, with the Indians of the Ponca Creek district, Rosebud Reservation, S. Dak., in regard to the sale of their unallotted Gregory County lands to the Government.*



April 13, 1901.

Inspector McLAUGHLIN. My friends, I have called to see you to-day for the purpose of ascertaining whether or not you are willing to sell the unallotted lands in Gregory County to the Government. As you all understand, under your old treaty of 1868, it requires a three-fourths majority of the adult male Indians in order to legalize any treaty for your land. It requires three-fourths of the adult male Indians of the entire reservation. Before talking with the Indians of the reservation, I desired to see and learn something of the character of the land and to meet you people in this district, who are more directly interested than the others. You doubtless know that there has been considerable talk for the past two years of negotiating with you people for this corner of the reservation. Last year there was legislation introduced, but it failed to become a law. This last session of Congress a bill was introduced, authorizing the Secretary of the Interior to negotiate with the Indians for this land, and it is a general law now.

Gregory County, of your reservation, embraces about 521,000 acres. There has been allotted to you people, and to those who have come here from the Lower Brule Reservation, about 103,000 acres, which leaves about 418,000 acres of unallotted land lying within Gregory County. There are 11 of you people in the Ponca Creek district who have not been allotted, and 18 of the Indians of the Big White River district unallotted, making 29 who have yet to receive their allotments, which would take about 9,000 acres, thus leaving you about 409,000 acres of land that would not be allotted.

Now, in case of making an agreement for the land, you people are the most interested of any of the Indians of the Rosebud Agency, for the reason that it brings you into direct contact with the white men. If the agreement

is concluded with you people the lands are to be opened to settlement. That means, of course, the white man coming in among you and locating upon the lands that have not been allotted.

In negotiating with Indians for tracts of land, a portion of which has been allotted to them, the privilege has been given the Indians to elect whether they shall remain upon their allotments or relinquish their allotments and remove to the reservation. I do not think that it is for the best interests of the Indians at any time to vacate their allotments. The lands that you have taken are, of course, the best lands of this county, and it is very doubtful if you could find as good land anywhere within the diminished reservation for the reason that the best lands have all been allotted.

Now these are matters you want to consider in discussing this proposition. If you desire to cede these lands to the Government, I am authorized to enter into an agreement with you, and if your unallotted lands here are thrown open to settlement, you will be brought into contact with the white man, and in that way, being more interested than the rest of the Indians living in the western part of the reservation, I wished to see you first before I talked with them about the matter, and, as I said in the beginning, I have been looking over your lands on my road coming through, and I have observed closely the character of the soil, which I wished to do before I begun negotiations with you.

Any agreement that we may enter into for the cession of your land will be conducted in a general council of all the Indians of the reservation, but I meet with you to-day in preliminary council—the first council—for the reason that you are the persons most interested.

If this 409,000 acres of unallotted land within Gregory County is ceded to the Government, the proceeds of it

will be of very great assistance to you by enabling you to advance well in industrial pursuits. These surplus lands are practically of no use to you, and many cattle belonging to outsiders come in and eat up your grass, and you might better dispose of it than to hold it longer, now that your allotments are secure and each man knows where his land is. The opening of unallotted lands to settlement will bring the white people in upon this part of the reservation, opening up farms, improving this section of the country, and will increase the value of the land throughout the whole section.

The sale of these lands to the Government will be of benefit to you for the reason that you will not be annoyed and worried by the trespassing of the white man's stock upon your lands, and for the reason that you will have the proceeds of the sale of this land to invest in other ways. I am not prepared to say to-day how much I can offer you for the land, as I am just starting in, this being my first council, but I wish to ascertain from you people whether you wish to dispose of the land or not, after which we can then discuss the matter and fix upon some figure and manner of payment.

I will now listen to what you may have to say in regard to the matter. I am ready to answer any questions that you may ask me in regard to it, and after you are through I will talk a little further. Now, the question that I would like to have you answer is whether you desire to dispose of your lands in Gregory County or not. If you dispose of this surplus land it will leave you about the same sized reservation as the Pine Ridge Indians have. You will understand that you lose none of your Indian rights by retaining your allotments. You retain all of your Indian rights the same as you now have.

MILK. Now, we do not want anybody to talk but Swift Bear. We have elected for him to make the speech.

SWIFT BEAR. This is what we have said: You come to work for the Indians and you are a good man; but, my friend, the land I am now on is ours, and we do not want to dispute with the Great Father about our land. Look at me right straight. We are talking. I am the chief of the land, and you have come direct to me and asked me questions. This is the question you have asked—whether we want to dispose of the land or not. Now, I will say this, my friend: We have a very small amount of land here, and we can not sell it. This is all the land we have got, and we have no other land anywhere, and if I drop this we will die poor. Of course, this land is mine, and I would not part with it. Now, look at me, my friend; my heart is white and so is yours, and so we sit and look at each other.

I have not got much to say, but I want to tell you this: We are a small band of people here, and when you go back and see the people at the agency and whatever you have to say to the people there we will be there and go with the people there. That is all that I have to say to you, my friend, and I want you to go and not say anything more. I object to selling the land. I love my land, and I do not want to sell it, and so I speak freely to you.

Inspector McLAUGHLIN. Well, my old friend, you gave me an answer. I did not expect you to come to a conclusion to-day. My object in coming here at this time and having a council with the Indians of this portion of the reservation was to let you know the nature of my business here and present the matter to you so you could discuss it yourselves, and after placing the matter before you for you to think of I intended to go up and see the Indians living in the Big White River district, as they are also interested. After talking with them I will return to the agency and call a general council of the Indians of the



entire reservation to meet at the agency. When the date of that council has been decided upon, a messenger will be sent down here to notify you people, and you will be given plenty of time to reach the agency, and the same will be done with the Indians at White River; but as they have the bad sickness—the smallpox—I will not assemble the Indians in a general council at this time. I think it unadvisable to assemble a general council at this time, as many people have been exposed to it, and they might spread it all over the reservation. When I return to the agency from here, if I find the smallpox still there I will notify the Secretary of the Interior and ask to go and attend to some other business, and then return here and assemble the general council.

I want you to understand that any general council that may be called to discuss this matter, you people here will be notified and given ample time to reach the agency, for the reason, as I said, that you are more interested than any of the other Indians of this agency.

I want you to understand that I come here as your friend. I am not here to buy land for myself—I do not want any of your land. I have been sent here by the Secretary of the Interior to represent the Government in this particular work, and I intend to have you understand it thoroughly and clearly. If there is a matter that I think is for the best interest of the Indians, I always explain it and see that it is thoroughly understood by them. I will say to you now that any agreement that I may make, should an agreement be concluded, I will be perfectly satisfied in my mind first that every one of you understand each article before it is signed.

No matter what the outcome of this may be, whether you cede the land or not, we will still be friends; we will part as friend, and when we meet again it will be as friends. If we make an agreement, I will prepare that

agreement so carefully that your interests will be guarded.

I have made a great many agreements with the different tribes of Indians of the United States during the past five years, and there is not a single agreement that I have made during those five years but what has been in the interest of the Indians; and they are so thoroughly in the interest of the Indians that they have always been satisfied with the outcome of them.

In case we make any agreement which will be satisfactory to you people, subject to the approval of the Secretary of the Interior, it must be ratified by Congress before it becomes a law.

My friend, Swift Bear, here says he has a very small piece of land. I do not regard the Rosebud Reservation as a small piece of land. I regard it as a very large piece of land, and after every man, woman, and child of the reservation has received an allotment you have a great deal of surplus land left. By disposing of this little corner of the reservation it would leave you a nice, square reservation, and the proceeds of the sale would benefit you very much.

You can look back in the past and see that when the white man wants a piece of land he keeps after it and after it until he gets it. Now, the white men of South Dakota, the best men of this country, have been demanding of Congress and of the Department for some years past that this corner of land be opened up to settlement, so that Gregory County will be able to maintain itself as an organized county. It is for the Indians of the Rosebud Reservation to say whether they want to sell it or not. You may refuse, and they will keep after you to sell it—keep working and introduce bill after bill until they will finally get this piece of land from you, and the best thing now for you is to consider this matter



and get the best price obtainable for it, so that you may be benefited as much as possible in building up comfortable homes for yourselves. Think the matter over well and discuss it among yourselves, and look at it from all sides and see whether it is best for you to own the land yourselves, or dispose of the unallotted portion and from the proceeds derive a benefit that will enable you to own more cattle and fix up your homes better than you possibly can under the present conditions. Do not shut your eyes and close your ears and say: We will not talk about this matter at all. Think of it yourselves and discuss the matter on all sides, and I think that you will come to the conclusion, when we meet, that it will be better for you to dispose of the surplus lands in this country.

I wish to say that I am pleased with this section of the country. You have a very pretty country here, and I do not blame you for being attached to it. If you needed these surplus lands, if they were of benefit to you, it would be different; but the white men are deriving just as much benefit from these lands as you are, who own the land. You can dispose of these surplus lands—that is, the unallotted portion of Gregory County; you can cede them to the Government and at the same time have the privilege of allowing your cattle to graze here just as much as the white man has until it is taken up by the white men as claims. Until the land is occupied and filed upon by the settler, your stock has just as much right to roam over it as the stock of the white man. I have no doubt that should this land be purchased and thrown open to settlement it will mostly be taken up by actual settlers, but there is a great deal of it will not be occupied for a number of years; but in course of time this land will all be occupied by some persons.

I have said all that is necessary to-day, and I think that you all understand me fully in regard to the matter.

SWIFT BEAR. Now, you talked twice, and I want to talk twice. You have told me that we have a large reservation—the same as Pine Ridge. Now, my friend, the nation will be increasing, and the land is something we would like to hold. That is the way I feel about it.

Of course, the land is ours, and even if you promise me \$15 an acre for it, I will squel then.

Now, there is another thing I want you to tell the Great Father: We are a great ways from the agency, and we have no doctor to take care of our sick people, and we would like to have a doctor here. If we can not have another doctor, we would rather have a doctor in place of our farmer, and the doctor could do the work of the farmer too. We think it would be better to have a doctor here than a farmer if we can not have both.

Inspector McLAUGHLIN. This being only a preliminary talk we will now adjourn, and you will be notified when a full council of the Indians is desired.

Council adjourned.

---

*Proceedings of a council held by James McLaughlin, United States Indian inspector, with the Indians of the Big White River district, Rosebud Reservation. S. Dak., in regard to the sale of their unallotted Gregory County lands to the Government.*

April 15, 1901.

Inspector McLAUGHLIN. My friends, I have come to see you to-day, not that I expect to transact any business with you, but simply to explain to you the nature of my business on the reservation at this time. Owing to the prevalence of smallpox on the reservation, and so near your camp here, I do not deem it advisable to assemble

the Indians, and therefore will explain to the few who are here, and you can tell the others what I am here for.

The Government desires to purchase of you people the unallotted portion of the Gregory County lands. I will point out to you on this map the tract of land desired, so that you may see and understand it better. In case of the cession of the unallotted lands lying within Gregory County, you who have received allotments will not be disturbed on your land at all. Every person would have the privilege of remaining on the land that has been allotted to him, or of relinquishing it and removing to the diminished reservation, but I would advise you who have selected tracts of land to remain upon your allotments in case of the cession of this land to the Government.

The cession to the Government of your unallotted Gregory County lands will bring you into direct contact with the whites, because the country will be open to settlement, and that will bring the whites right among you.

It requires three-fourths of the adult males of the entire reservation to sign the agreement to make it binding, and, as the consent of the Indians of the other portion of the reservation would be enough to make it legal, yet I did not want that— I want the full concurrence of all the Indians of the reservation; and as you and the Indians living in the Ponca Creek district are the most interested by being brought into direct contact with the white man should this portion of your reservation be thrown open to settlement, I came here to explain this matter to you first. After you all have your allotments, the sale of this surplus land of yours in Gregory County to the Government, which is now useless to you, would enable you to get a good start, as you are now very poor and have very few cattle.

Now, any talk that I may have with you in concluding an agreement will be had in a general council of all the

Indians which will be called to meet at the agency, and when the time is set for that council you will all be notified, so that you may be present.

Desiring to be fully informed in relation to this matter, I made a trip to this tract of country, and we have made a journey over the greater portion of it and have seen how the Indians are situated, and I am now prepared to act more intelligently than I could have without having seen the character of the country.

I am very sorry to find that my old friends, Medicine Bull and One to Play With, are not here to-day; but as I merely came here to meet you people, I go ahead and explain the nature of my business, so that you may think it over and discuss the matter fully among yourselves. We are not going to transact any business to-day, as we are not ready for that, as I want to have every Indian of the reservation meet in council, so that they can all hear what is said on both sides.

The Secretary of the Interior, under whose orders I am here, and under whose instructions I will negotiate with you for the sale of this land, I am sure would not wish me to endanger you in regard to the spread of smallpox, and I am satisfied that he will direct me to postpone the general council until such time as it will be safe to convene such a council; but while I was here I wanted to explain these matters to you.

I will say to you that we are not strangers. We have met before, and any agreement that I may conclude, as a representative of the Government, with your people of the Rosebud Reservation I will see that every word is carefully understood and the agreement carefully prepared before it is entered into. If we conclude an agreement we will be friends, and if we fail to conclude an agreement we will still be friends.

I want you now to talk among yourselves about this matter. I do not want you to close your eyes and say We



will not listen. That is not the way to do. I want you to discuss this matter among yourselves, so that we can arrive at some agreement. By the sale of this tract of country you will lose so little land that you will hardly notice it out of your reservation.

As your leaders, Medicine Bull and One to Play With, are not here to-day, I do not deem it necessary to say anything more on this subject, but when the general council is held at the agency you will receive notice and will be given ample time in which to reach here. If there is anything that any of you wish to say, I will be glad to hear it; but if you wish to defer speaking of the matter until some future time, well and good.

OLD LODGE. Of course we do not want to express ourselves right now, but we will get together ourselves in a few days from now and we will consider this matter very carefully, and when we come to the regular council we will then notify the people of our thoughts in regard to the land.

I certify that the above is a true transcript of the councils held, as above stated.

H. B. COX, *Assistant Clerk.*

ROSEBUD AGENCY, S. DAK., April 20, 1901.

---

*Proceedings of a council held by James McLaughlin, United States Indian inspector, with the Indians of Rosebud Reservation, S. Dak., with reference to the cession of their unallotted lands in Gregory County, S. Dak., to the Government.*

September 5, 1901.

Agent McCHESNEY. My friends, you have been convened in council at the request of Inspector McLaugh-

lin, who is here to negotiate with you for the cession of Gregory County, which is the eastern portion of your reserve. You have all met him before, and he needs no introduction to you. I wish you to listen carefully to all he has to say to you and to consider well what he proposes to you. You know he is a good friend of yours, and you can place entire confidence in what he tells you.

Inspector McLAUGHLIN. My friends, I am glad to meet you again and see so many of you here to-day. We are not strangers, having known each other for many years, and you all know that I am your friend, and a good friend of the Indians.

I am here under orders of the Secretary of the Interior, who was authorized by Congress, at its last session, to negotiate, through any Indian inspector, with any Indian tribes for the cession of their surplus lands, and he has sent me here to negotiate with you for your surplus lands in Gregory County, that is, for all of your lands in Gregory County that have not been allotted to Indians.

I visited that portion of your reservation last April to inform myself as to the character of the country and quality of the land, and having traveled over a considerable portion of that district I am prepared to proceed understandingly in the premises. Owing to the prevalence of smallpox on the reservation when I was here last April, I did not assemble you in general council, but postponed the matter until now, when health conditions are favorable.

You doubtless know that there has been considerable talk among the whites the past few years to have Gregory County unallotted lands opened to settlement, and that portion of your reservation is a square tract surrounded by whites on three sides; it is believed that its unallotted portion should be ceded by you to the Government and opened for settlement. All of you of the Ponca Creek



district have now your lands secured by allotment, and the opening of the unallotted portion would benefit you by enhancing the value of your lands, and as it is only a question of time, a few years at the most, until that portion of your reservation will be opened for settlement. I believe it for your best interests to consent to its cession at this time. I am in hopes that we can reach an agreement, such as will provide a reasonable consideration for the tract, the proceeds of which will be of great benefit to you at this time and for your future welfare.

Gregory County, as now organized, embraces 521,050.24 acres of your reservation, of which 104,909 acres have been allotted, leaving 416,141.24 acres of surplus Indian reservation lands in that county. This latter acreage includes 160 acres reserved for the Ponca Creek issue station, 40 acres each for the Ponca Creek and Milk Camp day schools, and 198.67 acres for mission stations, a total of 438.67 acres thus reserved, which will be included in the cession. The lands that you have taken by allotment are, as a matter of course, the choice lands of this district. You have thus appropriated all the living water along Ponca Creek and its tributaries, and it is the desire of the Department that you retain your allotments; in fact, a removal of any of the allottees to other lands would not be favored.

If an agreement for these lands is reached by us, the allottees of the Ponca Creek district will be brought into direct contact with the white settlers; but, as I said before, it is only a question of time until that condition has to be met, and from what I saw and observed of the advancement and intelligence of the Indians of the Ponca Creek district during my tour of those settlements last April I regard them fairly well prepared to meet the conditions that the opening of that settlement will bring to them.

These surplus lands are very little use to you as a people, or even as individuals, and the proceeds of it, judiciously expended, would be of great benefit to you all, and you might better dispose of the surplus lands of that corner of your reservation than hold it longer, now that all residing in that locality have your allotments secured and each knows where his land is.

The cession of Gregory County will leave your reservation a compact, and almost square tract, and would leave your reservation about the size and area of Pine Ridge Reservation.

We enter upon these negotiations as friends, and whether we conclude an agreement or not we will part as friends, so that when we meet again it will be as friends. If we reach an agreement I will prepare the paper so carefully that your interests will be guarded and fully protected.

I will now listen to what you have to say, and will endeavor to explain everything relating to the matter that you may wish to know. Here is a map sent me by the Department upon which is indicated by green lines the Pine Ridge and Rosebud Reservations. [Produces the map and explains to the Indians assembled.]

**TWO STRIKE.** I will ask you to tell about the price you are going to offer for the land which you have mentioned to us.

Inspector MCLAUGHLIN. I would say that I have not fully considered the matter, nor can I arrive at that definitely until I have an expression from you first. I would like to hear how you feel in regard to the matter. I want to give you a good price. I want to give you all the land is worth; all that the Department would be likely to approve or that Congress would ratify, and it would be useless for me to make an offer as to price in the beginning, or manner of payment, until I know that you

are willing to dispose of the land, and therefore, I want to hear from you first, and then, if you consent to dispose of the land, I will make you an offer for it.

TWO STRIKE. That is what we want; we would like to know the price.

LOAFER. I think it would be well for us to retire and consider the matter, then return and tell you about what we think.

Inspector MCLAUGHLIN. That is a good suggestion. I will first say that there is a lowest and highest price for Government land, known as the minimum and maximum price. The minimum price for Government land, which is the lowest price, is \$1.25 an acre; but your land is worth more than that, and I am ready to listen to any reasonable proposition and consider it and give you all that is possible, but it must be such as to meet Department approval and ratification by Congress.

LITTLE CROW. Well, you say \$1.25 an acre. We ought to have a little more than that.

Inspector McLAUGHLIN. I am willing to give a little more than that; yes, considerable more than that.

The Indians then retired to counsel over the matter themselves.

A delegation of the Indians called at the agency office Friday, September 6, and reported that the Indians desired to counsel further among themselves, and would again meet the inspector on Tuesday, the 10th.

Council convened Tuesday, September 10, at 2 p.m., about 350 Indians in attendance. Joseph de Marsche, interpreting.

Inspector MCLAUGHLIN. My friends, we meet after several days' adjournment to give you an opportunity to discuss this matter among yourselves. I hope that you have reached some conclusion, and I am now ready to hear what you may have to say regarding the cession of those lands.

RED FISH. My friend, I would rather have you tell us what you came for and let us know; then we will all tell you all about it.

Inspector MCLAUGHLIN. I explained that to you people last Thursday in council. The object of my visit here is well known to each and all of you. I will repeat again, however, that I am here to treat with you people for the cession to the Government of your unallotted lands in Gregory County. I pointed out to you on the map where the tract of land is, and I gave the map to one of your people that he might explain to those in council who desired to know. The Secretary sent me here to try and negotiation an agreement with you for the lands within the Rosebud Reservation that are embraced in Gregory county that are not allotted to Indians. It takes two parties to make a bargain. You are one party, and I represent the Government as to the other party in this negotiation that we are now entering upon; and the first thing that is necessary for us to arrive at is as to whether you are prepared to enter into an agreement for the cession of those lands or not. I am now ready to listen to you.

LITTLE CROW. You have a paper to read to us in regard to this matter, and if you will get it out and read it to us we will be ready to answer to your questions.

Inspector MCLAUGHLIN. I have nothing with me as a paper other than my instructions, which, in case I read to you, you would not understand. I will read, however, a letter from the Secretary of March 21 last, which is as follows:

"I transmit herewith a draft of instructions for your guidance in negotiation with the Rosebud Indians for cession of that portion of their reservation in Gregory and Lyman counties, S. Dak.



"Upon receipt of these instructions you will proceed to the Rosebud Indian Reservation, S. Dak., and carry the same into effect."

The following is an extract from letter of instructions prepared by the Indian Commission, which is referred to in the Secretary's letter just read:

"The consideration to be paid the Indians for the surplus lands in question should be a fixed definite lump sum. It is impossible for the Department to indicate the price to be paid. It should, however, be just and fair both to the Indians and to the United States. In fixing upon the price you should not lose sight of the fact that no doubt a great deal of the choicest land within the district named has been allotted, leaving the less desirable portions. In the agreement with the Rosebud Indians on March 10, 1898, providing for the location of certain Lower Brule Indians upon the Rosebud Reservation, the consideration was fixed at \$1.25 per acre for lands actually required as allotments for such Lower Brule. This of course contemplated the selection of the choicer lands, and can not, it is thought, be taken as an index in determining the price to be paid for the surplus lands now under consideration."

Now, as these instructions were prepared from the price indicated there by the person who prepared it, with the signature of the Commissioner and the approval of the Secretary, I inferred that they expected these lands to be purchased at \$1.25 an acre, and I did not believe it was enough. I, after visiting the country, wrote a three-page letter to the Secretary, reporting my trip—that is, I refer to the character of the country, the quality of the lands, tracts taken by the Indians, and unallotted portions. My instructions were then modified by a letter of late date, as follows:

"The office did not mean by the foregoing instructions that the inspector should be limited to \$1.25 an acre as the price to be paid for the Gregory County lands. The office is reliably informed that the lands in question are of excellent character for that locality and are worth considerably more than that amount.

It is, therefore, respectfully recommended that Inspector McLaughlin be advised that, if a satisfactory agreement with the Indians can be reached so far as the other necessary terms contained therein are concerned, he is authorized to agree to pay the Indians such sum for the lands ceded as they are fairly and reasonably worth, even though the rate per acre exceeds \$1.25."

The Secretary then, in transmitting the modified instructions, wrote this letter:

"Referring to Department letter of March 21 last, transmitting instructions for your guidance in certain proposed negotiations with the Indians of the Rosebud Agency, S. Dak., looking to the cession of a portion of their reservation, I now transmit for your information a copy of a letter, dated the 20th instant, from the Commissioner of Indian Affairs, relating to the question of the price to be offered for the said lands, stating that it was not contemplated by the original instructions to confine or limit the price to be offered and paid to \$1.25 per acre, as seemed to be apprehended by you, from the statements made in your report of the 29th ultimo, in which, owing to the sanitary conditions then prevailing on the reservation, you reported that it was impracticable to get the Indians together, and that a conference with them would have to be deferred to a later period."

My friends, these are all the instructions that I have. The matter is left largely with myself to determine what



would be a fair and reasonable price, what the Department would approve, and what Congress would ratify. If I want to buy a horse from an man I generally want to ascertain what he asks for it in the first place, and therefore I would like to hear from some you leaders—first as to whether you wish to sell those lands or not, second, as to the price you hold them at.

**SWIFT BEAR:** You look right at me. I have heard all you have said. All thses people are mine, you belong on the other side. You belong to those people, and you are telling what they have to say about. You are talking about the land where I am living. Is that right?

**Inspector MCLAUGHLIN:** Yes; in the Ponca Creek district.

**SWIFT BEAR:** When you visited me last spring, I talked this way to you. You offer too low a price: I can not come down to it. When you were over there last spring, you said to me that if you had a horse to sell you would sell it to any person that wanted it at a certain price, and if you got your price you would sell it. But, my friend, I do not want to sell my horse. He is too poor now, and I don't want to sell him, and I am speaking the minds of my people when I say: "We don't want to sell our land."

I want to tell you one thing: When you were here three years ago, you told us that if the allotments were divided up, giving man and wife equal shares, they would each receive the benefits—that is, each would receive payment—but that has not been carried out as you promised.

**ONE TO PLAY WITH:** I want to ask you one question. These people arround here tell me that you want to buy Gregory County. Now you come in and say that Lyman County is included in that.

**Inspector MCLAUGHLIN.** It is all in Gregory County. Gregory County has been extended through to the line

between townships 100 and 101. There used to be one tier of townships of your reservation in Lyman County. When preparing my instructions they were not certain as to whether a portion of Lyman County was in your reservation or not, but this was settled by a letter and map I have received from the surveyor-general of the State.

**ONE TO PLAY WITH.** Why did you mention two counties instead of one?

**Inspector MCLAUGHLIN.** I am not treating with you for any land except those in Gregory County as it is now organized. Lyman County was mentioned in my letter of instructions which I read to you, as it was thought by the clerk in the Indian Office who prepared said instructions that possibly the reservation extended into Lyman County. Hence his mentioning it, but he knew that I would ascertain definitely before I commenced negotiating with you for the land.

**ONE TO PLAY WITH.** Only one thing you are doing here is just asking us questions—just asking us whether we want to sell the land or not.

**INSPECTOR MCLAUGHLIN.** What price do you hold the land at—that is, the unallotted land in Gregory County? We want no other lands except those in Gregory County—the unallotted.

**ONE TO PLAY WITH.** Well, I know, but I don't want to sell it, and I don't want to say any more about it.

**RED FISH.** All of us people down in the lower part of the reservation have got children, and we don't know what to do, and we have just stuck one of these white willows in the ground. We have stuck one of those white willow trees in the ground, and we brace our heart to it. All of our little children and ourselves we take our hearts as one and embrace it.

Since the Lower Brulés came on this reservation the children that have been born since that time have no

rights to take allotments, and that is the reason that we want to hold the lands.

My friend, that is the reason I want to tell that I don't want to sell, and I brace my heart against this willow.

**GOOD VOICE.** All of our people east of here want me to say certain things. You have just come here to ask us a question. Since you only came here to ask us a question, we have stuck that willow in the ground to set fast to with our hearts. We don't know what to do, so we stuck that fast there to hold on to. Since you have come here just to ask us questions, we have put that willow in the ground, and we want you to take that offer back with you and think the matter over. If you ever come again, by that time we will know what to do, and then you can come here again.

**TURNING HAWK.** My friend, look me in the face. My people have sent me here to say a word, and I am going to say it on account of my people. I have been thinking about our children growing up, and I want to say something in regard to them. While I am not a chief myself, yet I am going to say something that I will stand by. Our children will grow up here yet, so we don't want to sell the land, and I thought I would come here and tell you about it. We people have got to live yet, and the children are growing up; therefore I don't want to sell it.

**Inspector MCLAUGHLIN.** My friends, I hoped to have an expression from you in regard to the price you hold those lands at, but all who have talked have spoken in opposition to the cession.

**HIGH HORSE.** My friend, you have come here to talk about the people's lands here, and want to ask me a question. I will never help the President any more, and I am not going to give you this land.

**Inspector MCLAUGHLIN.** There have been six of you speakers who say that you do not wish to sell your land.

My friends, frequent complaints have been made to the Department that the Rosebud Indians were destitute and suffering because of short rations, but your refusal to sell your unallotted lands in Gregory County will satisfy the Department that you are not so needy. If a man should have a horse for which he had to use and represented to me that he was broke and hungry, and then should refuse to sell the horse at any price, I would conclude that he was not deserving of help. If I knew that you needed those lands I would not urge this upon you, but your unallotted lands in Gregory County are not doing you any good whatever, and I am prepared to give you a good price for those lands, the proceeds of which will enable you to advance yourselves in industrial pursuits. I am prepared to have a portion of the consideration paid to you in stock cattle, and a portion of it in cash, and a portion of it used in building dams and reservoirs on your reservation where there is no water, where you have excellent ranges but no water for your stock. The white people of the country, and particularly those in this section of the country—that is, I mean the section of country where your lands are—are demanding the opening of that tract of country, and it is only a question of time until it will be opened, and I can make you such conditions now that it will be of great benefit to you, and you should not come here with your eyes closed and your ears closed to any proposition that I may offer, and look at the question as it actually is—that those lands will be opened before long anyway, and now you have an opportunity of making a good bargain with the Government through me and you ought to avail yourselves of this opportunity.

I am not here of my own accord. I am sent here representing the Secretary in the matter; I am his eyes, ears, and tongue in this matter. I looked over your lands



with my eyes, and I am now explaining to you with my tongue that I am prepared to enter into an agreement giving you a good price for your lands. And I am now ready to hear with my ears whatever you have to say. I hope that you are not all set against entertaining a proposition of this kind, as those who have expressed themselves.

PETER TALL MADAN. Since you have said what you have, I feel good over it; my heart is good. You said that you were the Secretary's eyes and ears and tongue. There were six men here said something, and you answered them, and I am here to answer you too. The land that you are after, all of us young fellows like me understand what you want it for. But you said that the President would open that land after while, because some white men wanted it. We sold a big piece of land (the ceded lands across the Big White River), and it was then opened for settlement. If your people want land, why don't they take that land? There may be 8,000,000 acres vacant there yet. Now, the President was to pay us in ten years, and he ought to have done it, but he has not, and we have passed over one year. That is the reason we are starving, and that is the reason we are complaining. We have been asking our agent to write letters for us. We concluded to wait and see if the Government would pay us for that before we talk about this latter matter; that is the reason we have put us these men to say what they have said to you.

JOHN WALTER BULLMAN. I am 18 years old, and I am only going to give you one word. All of us men 18 years old are wanting to know what you want to open that land for? He has opened that other land and not paid us all of it, and now he wants us to jump over that and consider another proposition. If we go ahead and do that, what will become of that other land deal? All of us 18

years old don't want to do as you want us to do, and you, my friend, just be quiet and take this matter home and let it go.

WHITE HAWK. Those old men came here and said they did not want to sell the land, and they want me to say this in regard to it: When Crook made that other treaty, there were some school lands—school sections that ought to be paid for, and anybody coming here to help us out ought to see that the Government pays us for that. Besides that there are other treaties that have not been paid for, and if we go ahead and make another treaty all the rest of them will be the same way. One more thing I want to say. All of us that are 18 years old say "no."

BEAR COAT. I belong to a set of men 18 years old, and they want me to come here and say a few things to you. They have a horse that you came here to buy, but they can make use of that horse themselves, so they don't want to sell you that horse. We don't want to sell you our land, for we can make use of it ourselves. For once let the inspector go back without making a deal—even the girls say so.

FLY WALKING. You are a wise man who have come here from Washington. I want you to open your eyes and see all these men from 18 years up. Since you have come and set down here we have looked you right in the face. Our school lands—school sections that we sold to you—we have not received pay for yet, and that is the reason we are starving to death—because we have not received what is coming to us. So we will wait a while till we get that is coming to us; then we will argue about this other land deal. All of them that are 18 years old have come to me and told me to say "No" in regard to it.

SPOTTED EAGLE. My friend, I am 18 years old and stand before you; but I always think of Crook's treaty, and I always remember that; and on that account I don't



think it is time for any man to come here and ask me the questions you have asked me. We have not received pay for those school lands yet, and you ought not to come and talk about this til we are paid for that.

**HAWK TRACK.** I want to say it this way: It is not only the 18-year-old men that don't want to sell. The Government has not paid me what it owes me yet, and still you come here and try to make another deal. That other money belongs to me and he won't pay me; so in regard to this deal I say "No."

**Inspector MCLAUGHLIN.** My friends, in your talking and fault-finding with the Government, you seem to have lost sight of all that the Government has done for you and is now doing for you. Now, I was sent here by the Secretary of the Interior to endeavor to make an agreement with you people. I hoped when I came here that I would be able to do so, and I am going to do my part at least and announce to you what I am ready to offer for that land. I do so that you may consider it as something to think of, and in case you refuse that you will sooner or later regret that you had not accepted the offer. Now, since my arrival here last spring I have heard a great deal of talk about the value of lands in Gregory County and the price you held those lands at. I regard your lands there as good lands. I looked over them, and I am prepared to give a higher price for them than I have ever known offered for the extinguishment of the Indian title, except two pieces, and they were small tracts of land, and these two tracts of land were far superior to your land; that is, the Yankton and the Sisseton reservations. Now, in order that you may understand this matter very fully, I am going to explain to you the nature of the Indian title to lands. And I will also make you an offer for your unallotted lands in Gregory County.

The right of Indians to their reservations is that of occupancy alone; the vested right is in the United States, subject only to the right of occupancy by the Indians.

Indians have no power to sell or dispose of their reservation lands except to the United States, and while the fee or vested right to the reservation is in the United States, the right of the Indians to its use and occupancy is as sacred as that of the Government to the fee. The Indians have a right to the use of their reservation and benefits of what it produces, whether from the results of their own labor or of natural growth, so that they do not commit waste.

They are, therefore, simply tenants for life; that is, they have free use of the lands during their lives, but can not sell any such lands except to the United States, which the sale is called relinquishment of Indian title to the land. They can not lease their reservation lands except through the United States, or even individual allotments during the trust period, except by approval of the proper Government officers.

The value you place upon your lands I am now negotiating for is as high as the adjacent lands are held by whites of the locality who have absolute title to their holdings, which includes the Indian title heretofore extinguished and paid for by the Government, thus leaving their lands with unclouded title, while you have only a life-occupancy title to the unallotted lands that I am asking you to cede, the fee tenure being in the Government, and it is unreasonable for you to expect as much for those lands as if you had absolute title with the right of alienation; that, to dispose of them to any person and give clear title thereto.

Having traveled over the greater portion of your reservation, I know your Gregory County lands are

among the best of any portion of the reservation and would regard \$2 an acre a fair price for the tract which I am asking you to cede; but, as I explained to you during our first council, there is a minimum and double minimum price for Government lands, the minimum price being \$1.25 an acre and the double minimum price being \$2.50 per acre, and rather than have our negotiations fail I will allow you the higher price and will enter into an agreement with you for \$2.50 per acre, or rather for a lump sum for that unallotted tract based upon \$2.50 per acre.

This price is full value of the lands, and when taking into consideration that a great deal of expense has been incurred by the Government in disposing of lands to actual settlers, my offer is very liberal. The surveying of lands and the maintenance of the United States land offices, for their disposal under the land laws, costs considerable money, and it is doubtful if the Government could reimburse itself from the sale of these lands after paying you \$2.50 per acre for them. Some discretionary power being vested in me in conducting these negotiations, and believing that \$2.50 an acre is not an unreasonable price, yet every cent the lands are worth, I concluded best to offer you the very highest price I could allow you in the beginning, rather than offer you a lesser price at first and increase it to \$2.50 an acre later on. This is a very liberal offer and a good price for your lands, and it is reasonably certain that a higher price would not meet with the Department's approval or be ratified by Congress.

This price I offer you amounts to a large sum of money. Your unallotted lands in Gregory County approximate 416,000 acres, which, at \$2.50 an acre, is \$1,040,000, and I suggest the following manner of payment:

|                                                                                                                          |                |
|--------------------------------------------------------------------------------------------------------------------------|----------------|
| Fencing out boundaries of your reservation,<br>building dams and reservoirs to retain water,<br>where required . . . . . | \$40,000       |
| Stock cattle (2-year-old heifers and graded bulls)                                                                       | 250,000        |
| Cash to be paid in five annual payments . . . . .                                                                        | <u>750,000</u> |
| Total . . . . .                                                                                                          | 1,040,000      |

This \$750,000 to be paid in five annual payments of \$150,000 each.

The census rolls show 4,917 persons belonging to this agency, which would give an annual per capita allowance of \$30.50, that is, \$30.50 once a year to each man, woman, and child for a period of five years, aggregating \$152.50 that each man, woman, and child would receive in the five years. At the expiration of five years when this per capita payment would end, the matured increase derived from your stock cattle would then be marketable, and continue to furnish a large number of beef cattle annually thereafter which would place you upon an independent footing and, with proper care your cattle, would insure you a regular annual income.

This is the largest price ever paid for land, as I said in the first place, except in the Sisseton and Yankton reservations, whose land is far superior to yours. This is much greater than I expected to have to offer when I came here, but after going over your lands and examining them very carefully, I came to the conclusion that they were worth the double minimum price, and I concluded that it was better for me to make you an offer in the beginning, what I felt justified in allowing in the agreement, than to start down low and go up to that amount. So I have presented the matter in a way that I think you will all understand, and I hope that you will not, as I said before, close your ears and eyes to this proposition, as it is a very liberal one and full value for



your land. I don't expect your answer right away, within a few minutes, but I want you to consider the matter. I want you to consider what benefit these reservoirs on the reservation will be to you and the employment it will furnish the Indians who aid in constructing them.

Then the stock cattle, which, if properly cared for, will bring about a great deal of prosperity among you people. And, in the third place, the case payment for five years, which would enable you to take care of your families without any suffering until you begin to receive returns from the marketable cattle, the increase of the cattle that will be issued to you. A great many people since I have come here have approached me and asked me what I intended to offer. I have given the matter a great deal of thought, and I have made you an offer now larger than it was my intention in the beginning; but, as I said before, after visiting your lands in Gregory County, and knowing that they are desired by the white people, I thought that the white people could afford to pay the double minimum price for the land, which is \$2.50 an acre for the tract, and I have based my proposition on that ground. Now you have the offer.

HIGH HAWK (Louis Robideaux interpreting). My friend, we have sung the "Big Belly" song right here to-day—the song we alway sing when we are going to make a treaty. On account of our children we will not sell this land short of \$5 an acre, and we want you to take this answer back to Washington.

HE DOG. My friend, we have considered this matter, and so I will make this statement to you: We can't earn anything, but we own this land that you have been talking about, and we will take \$5 an acre for it.

EAGLE HORSE. You came here to ask me to sell my horse. The horse you want me to sell I don't want to sell; I don't care whether I sell him or not. I have considered

this matter very carefully, and have come to the conclusion to sell the land for \$5 an acre. Half the money we want to our credit in the United States Treasury, the interest of which we wish to receive; and the other half we want paid to us in cash. That is all I have got to say. There are some other things that we wish stipulated in the agreement; but as I can not read and write myself, I will have the boy here, Reuben Quick Bear, read it to you.

REUBEN QUICK BEAR. The question I want to ask you is this: The other day you said that you wanted to purchase Gregory County, but now you come and say that you want that other county, Lyman County; that is what I want to find out about.

Inspector MCLAUGHLIN. We want nothing outside of Gregory County.

I simply read a portion of my instructions, which you interpreted as meaning that the reservation extended into Lyman County; but it does not, although the old maps show portions of the reservations extending into Lyman County. This was changed by the State legislature of 1897. The north line of Gregory County now extends to your reservation line at that point, and no portion except Gregory County is meant for consideration in this proposition of mine. Here is the letter and map from the surveyor-general of South Dakota to me in reference to the boundaries of Gregory County.

REUBEN QUICK BEAR. How many townships do you want to get?

Inspector MCLAUGHLIN. There are about 22, I should judge. They are not all full.

REUBEN QUICK BEAR. You have come here to make a treaty and you want 22 townships, and now you ask what price we will offer this land at. We have set the price we can sell the land at as \$5 per acre, and we hope we will



get it. We want one-half in cash, and the balance to be deposited in the United Treasury, the interest from which would be paid to us annually, after three-fourths of the people consent to this treaty. And those who have already received their allotments, when the allotments has been divided between husband and wife, we want the wife to receive her share the same as the husband, and we want all the children, as they reach the age of 18 years, to receive the same, which would be 320 acres instead of 160, as at present.

In 1898 we made the Lower Brulé agreement, and the agreement we are now going to make is this: That the children born since the Lower Brulé treaty and those born hereafter are to receive land. We also want to hold mixed bloods and white men intermarried into our tribe upon the reservation, just the same as they have been in the past, and have them fully protected. We want the payments to be issued to all those who were here upon the reservation, and the mixed bloods as well as the Indians. When you take the report of this council back to Washington, if Congress don't ratify this agreement then they do not want the land, and the thing has fell through with. It would make you sorry if you would go around among the Indians and see some places where the rain beats through the roofs of our houses. The reason I say this is because if we got some money we would repair them, and we could buy mowing machines and whatever we need for ourselves. I have mentioned to you already that we want part of the money put in the Treasury of the United States, so that we would have something laid up for the future; and that is all I have to say.

(Joseph De Marsche interprets from this on to adjournment.)

Inspector McLAUGHLIN. That is a very good talk of Reuben's, and it brings up so many questions that I deem

it necessary to reply to it at once. Now, I say to you a while ago that the consideration and manner of payment was left to a certain extent to my discretion, but it must be in accordance with certain lines and policies of the Government, outlined in letter of instructions, a portion of which was read a while ago. I will read one more extract:

"Respecting the disposition to be made of the proceeds arising from the proposed cession, if any be effected, the Department feels that this is a subject requiring most careful and earnest consideration on your part. From ample experience the Department is convinced that cash annuities and the issuance of rations for any extended period of years to Indians is most detrimental to their present and future welfare. Idleness and lack of self-dependence are fostered by the ration and annuity systems, and it is believed that they are one of the great drawbacks to the progress of Indian tribes toward civilization. Any provisions, therefore, in the agreement with the Rosebuds which would enable them to live without putting forth at least as great effort as at present to gain a livelihood would be regarded, necessarily, as a backward step. The Sioux Indians, as a tribe, especially, have the lesson of industry and self-dependence yet to learn. The Rosebud Indians, in the completion of their allotments in severalty, are now entering upon a new era in their tribal history, and it is most important that their future needs, under the changed conditions likely to ensue from their having received such allotments, should be most carefully considered.

"The special needs of the Rosebuds should therefore be inquired into. Their agent should also be consulted. A plan for the disposition of the proceeds should be formulated that will tend to promote the welfare of the Indians and start them

on the road to civilization and self-support. Stock cattle, it is suggested, should be purchased with a portion of the proceeds. The question of irrigation should also be inquired into, and if irrigation be practicable on the reservation provision therefor should be made. The educational needs of the Indians should receive attention, and if any additional facilities are required they should be provided for. The question of providing for the construction of houses and the purchase of additional farm implements, wagons, harness, etc., should also be looked into, and if needed, provision therefor should be made." And here is the principal part of it where they close and draw a line under it. "But the agreement should not provide for the payment of any large sum or sums to the Indians in cash."

Now, to explain a number of points that Reuben's speech has raised, I will say that I could make no provision whatever in the agreement that would interfere with or affect the act of March 2, 1889—that which you call the Crook treaty.

Any agreement that I might enter into with you I would have it very carefully worded, so that your interests would be fully protected. The payment that I would specify in the agreement would be carried out to the letter. In so far as the agreement that we would make is concerned, there would be no question about having it so carefully worded that all the conditions would be fully carried out; but I have no right to go back to former treaties or agreements; that is something outside of my province.

The next question I wish to speak of is the proposition made by Reuben Quick Bear asking for an immediate cash payment of one-half of the consideration and the other half to be deposited in the United States Treasury, and the price demanded by him and some of your other

speakers—\$5 an acre. I wish to say to you very plainly that it would be useless for us to continue in council if you have in view getting \$5 an acre. It would be out of the question; it would be unreasonable, and away beyond anything I could recommend. I would not make an agreement with you that I would not indorse in submitting it to the Department. I would be laughed at in recommending anything involving the amount of money that you ask for your lands.

I have the reputation of being fair and just with the Indians and of having a head upon me that I can make reasonable calculations; and if I sent in an agreement providing for \$5 an acre for the extinguishment of the Indian title to that tract of land, they would think that I had gone insane and call me home to be doctored. I want to do what I can for you people. I have made you a very liberal offer. I am ready to reason with you and explain to you if it requires hours or days, or even weeks; but if you insist upon demanding \$5 an acre, we might as well drop the matter and bring our council to a close.

I have gone upon record, and therefore the Department is on record, by having, through me, offered you \$2.50 per acre for that land, and that is a very liberal price. If you do not see fit to accept this price and the conditions that I offer, I do not see as it is worth while for us to continue to discuss the matter longer.

I am thinking of you all, of what is for your good and welfare, when I wish you to take a portion of the price in stock cattle. Also a small portion of it in building dams and constructing reservoirs upon your reservation, on portions where you have no water for your stock. Also in extending these payments five years instead of giving it to you all at once, for there are only a very few white people that know how to handle money to the best advantage, and that large sum of money placed in your



hands—that is, half the consideration to be paid to you in cash, at one payment, the other half to be placed to your credit in the United States Treasury—the half you would receive in cash would be more of injury than of benefit to a great many of you. It is something that I would not recommend myself; therefore the Department would not approve and Congress would not ratify. I have had in mind your best interests when I have calculated and made you the proposition that I have. To think the matter over well, you had not ought to jump at conclusions. Think it over. Take time to deliberate, but don't close your ears and say "We won't do anything, we won't entertain that proposition." If you consider it well, you can not fail to come to the conclusion that it is a very liberal proposition and that it is to your best interests to dispose of these unallotted lands that are bringing you no returns and from which you are deriving no revenue.

I think a very good way for us to arrive at some conclusion would be for you people to select a committee to represent you and come to the office and see if we can not arrive at some conclusion in drafting an agreement, and, if we reach some conclusion, prepare an agreement and submit it to you people again for ratification. Now I think that it would be well for us to adjourn for a time and you people talk this matter over among yourselves. However, if you still persist in refusing this reasonable proposition, then it is useless for me to remain longer at this agency.

If any of you have anything further to say, I am ready to listen to you; if not, I think it would be well to adjourn the council and you talk over what I have already explained; and I wish that you would consider that suggestion that I have made in regard to appointing a committee. We can then draw up section after section, to meet the wishes of the Indians, such as I know the

Department would be likely to accept and approve, and then we can all meet together and agree to it. As you all know, it requires three out of every four of the Indians—that is, a three-fourths majority—to sign the agreement before it is valid and binding. It means that you have got to be practically all of one mind. I don't know as it is necessary for me to say anything more at this time.

REUBEN QUICK BEAR. You say that if you had a horse to sell, and some one wanted to buy it, you would not need to sell it to him unless he offered you what you wanted for it. You want my land, but if you will not pay what we ask for it you can not have it.

LITTLE CROW. You have come here to buy my land, and I have arisen to say something on that subject. I don't want the price to go above or below \$5 an acre for the land. If we make that treaty, I want half of that money to put into cattle for us and the other half to be paid to us in cash. All of us people down in the lower part of the reservation have herds of sheep, and we can put in those dams and wells. We want you to go back to the Great Father and tell him that we want \$5 an acre for the land and then come back and tell us what he has to say, and then we will be ready to listen to you and make a bargain. Another thing: All that vacant land we would like to hold for our children in the future.

RALPH EAGLE FEATHER. You told us we could make this treaty to suit ourselves. You said that the regular price for land of this kind paid by the Government was \$1.25 an acre, but after you went and seen our land you said that we ought to have more than that.

He Dog and High Hawk have prepared a paper which I will read to you. My friend, you said that whenever a man had a good horse for sale, that the man that owned the horse always had to set the price on the horse. So, my



friend, we have some land for sale, and we have already told you what we ask for it, but you will only give us so much, and you ought to have told us in the first place about the price, and then in our deliberations we would have known what to have done when we met you again to-day.

Inspector McLAUGHLIN. I would like to answer one question before you go on with that. I told you in the beginning that if a man had a good horse to sell or any article for sale, the man that wants to buy generally asks what he holds it at, and the owner should state what he would sell it at. I asked you people to set a price on your land, but you failed to do so when I asked you. I then made an offer, and you after long delay now set your price, for the first time, at \$5 per acre. But the man having a horse to sell is not obliged to take the price offered, neither is the man who wants to buy obliged to pay the price that is wanted by its owner— that is, he is not obliged to accept it at the price, nor is the other party obliged to accept the price offered. It takes two parties to make a bargain. You declined at first to set a price upon the land, and then I made you an offer; and now you come back and demand double the price, and it is unreasonable and could not be entertained by the Government.

RALPH EAGLE FEATHER. We Indians intend to own the land, and have taken it in allotments, just as the President said to take it. We want payment for all vacant land left after that. After that the Indians of future generations can live upon the land and own it—that is, the lands within the diminished reservation, in case Gregory County should be ceded.

From now on the Indians and their children, and the half-breeds and their children, that are capable of holding any position upon the reservation, we want to hold it,

such as the clerk, or harness maker, or blacksmith, or wagon maker, or carpenter, or boss farmer, or tinsmith, just as they are capable of holding them. And after this we don't want even one white man to hold a position that any half-breed or Indian can hold. We have children here that are educated enough to do lots of these things, and they are without employment, and that is the reason I speak of it.

We want allotments for the children that have been born since the Lower Brulé treaty; and there are children 18 years old that have taken their allotments and have not received their pay yet; and people that have taken their allotments and since died, we want their heirs to receive pay.

We do not want any cattle held upon the reservation without our permission.

You ask us Indians to consult about the treaty or agreement. I have decided to charge \$5 an acre and not accept less. And we want all the money to be paid in cash—in installments. We don't want any stock cattle in connection with this affair.

In the treaty of 1889 the Government was to give us 25,000 cows; and out of that we never received but 14,000 head, so we have been waiting to receive the other 11,000 head. And in the treaty of 1868—the treaty to send our children to school— there was no place to send them until 1879, so there is eleven years of school fund that was made no use of; so we want that money so that the children can draw rations from it.

In the Black Hills treaty of 1876 you said that you would feed us Indians as long as we lived; and we are not able to feed ourselves yet, yet you have taken our rations away from us. I want you to give my rations back to me. And if you can not include these demands in the treaty I will not spare even a part of that land. I don't want one

cent to be paid in any other way, but I want all of it to be paid to us in installments.

The first thing after the treaty is ratified we want every person to draw \$100 cash; and after that, every year as long as the money lasts, we want to draw \$20 per head.

We would like to have it so that when anyone wants to transfer from any other agency to this that they can come, and have them bring what they are entitled to and draw their money right out.

Inspector McLAUGHLIN: Regarding the questions raised by Swift Bear, Reuben Quick Bear, and other of your speakers as to the payment of the benefits provided in section 17 of the act of March 2, 1889, to man and wife where the double allotment first issued to the husband has been equally divided between man and wife, or where each have received an equal share when allotted, as provided in your agreement of March 10, 1898. Many of you doubtless remember that when I was here negotiating that agreement with you for the admission of the Lower Brulé Indians to your reservation, in answer to a question asked by Chief Good Voice, I said that under the ruling of the Department there was no question about persons who had reached the age of 18 years being entitled to payment provided for allottees; that under said rulings every person over 18 years of age was entitled to 2 cows, a team of horses, wagon, etc., and \$50 in cash, or that by commuting these articles and giving all cash the amount would be \$241.75, being the commuted amount fixed upon in paying the Santee and Flandreau Indians. This was the ruling of the Department up to the time I held that council with you for admission of the Lower Brulé, and I said to you, in reference to the division of the double allotment to heads of families being divided so as to give husband and wife equal shares, that each allottee being entitled to the benefits provided,

and as husband and wife would each have an allotment, they would each be entitled to the cows, horses, wagon, etc., and \$50 in cash, just the same as if they were separate. That was then my understanding of the matter; and it was a correct answer to the question propounded by Good Voice under the rulings of the Department up to that time.

However, this interpretation of the question was changed by subsequent rulings of the Secretary, and only those who were 18 years of age or over when allotments were authorized, in 1893, are entitled to such payments. This last ruling also excludes women who have received one-half of their husbands' original allotment, or where equal shares have been given to husband and wife in allotments since made, it being held that the act of March 2, 1889, only contemplated such payments to the heads of families and single persons over 18 years of age. I did not misrepresent to you anything in that council, and my answer to the inquiry of Good Voice was as I then understood the question from Department rulings in the premises up to that time. A subsequent ruling, however, excludes the wives and persons under 18 years of age from receiving the articles provided by article 8 of the act of March 2, 1889.

STRANGER HORSE. Look at me. In the last treaty we brought the white men intermarried into the tribe as Indians; I am an Indian, but am asked to speak for that class of people. He said that they could live among the Indians, but must teach them how to own property. They have been with the Indians about twenty years, but the President has not done with the Indians as he agreed to do in the last treaty. The mixed bloods have not learned to hold property, although they have tried to. You said that we had a good horse, and you had come to ask what we would take for it. He is a good horse, that horse of

mine, and so I have left him out there to grow fat. You have asked us what we would take for that horse. Now, I have studied that question all this time, and I am ready to tell you what I will take for him. You have come here expecting to get him at a certain price, but you will help us out and give us a higher price. The half-breeds want me to say that they want \$5 an acre for the land. When I have anything that is fat like that horse, and anybody wants to buy it and I tell him the price, if he don't want to give me that, why it is all right. I knew that the President would not give me the money in cash; that is the reason that I concluded to take half in cattle. Also, in case we make this treaty, I want the children that are born to have title to the vacant lands. Since Crook's treaty there have been children born in this way, and I want them to take allotments, and hold them, and be entitled to them.

Another thing. You told us that as fast as these children became 18 years of age they would draw annuities like the rest of them, but it was laid aside; but now I would like to have you work it up in this treaty so that it would be that way. I also want this treaty to stipulate the division of the allotment between a man and wife, so that each would receive their share. These things I have said to you are the sentiments of the half breeds, who have requested me to express these things to you.

PICKET PIN. There are a great many of the Indians who have already left the council that want \$5 an acre, but I want to see, for my part, that we get that amount if we sell at all.

Inspector McLAUGHLIN. Replying to Ralph Eagle Feather's demand for the discontinuance of whites and the employment of Indians at your agency, you must bear in mind that it requires special qualifications for some of these Government positions and that preference is given to Indians when qualified.

I wish that Indians would seek Government employment less and launch out in some enterprise for themselves. By engaging in business for themselves after leaving school the young men would be more likely to prosper than by filling any ordinary Government position at an Indian agency, and also be more independent. It is seldom that a young man saves any money from his salary when employed at an agency, and he usually leaves the service as poor as when he commenced, while by the same exertion on a farm or in stock raising he might have accumulated considerable property.



I now repeat that I want you to consider the proposition that I have made for the cession of those lands, and return here to-morrow and give me an answer.

If there is no probability of us reaching an agreement it is useless for me to remain any longer, and will therefore leave here next Monday; but if we can reach an agreement I will remain until the necessary signatures are obtained.

This council is now adjourned until to-morrow.

SEPTEMBER 11, 1901.

Council convened at 8 a.m., with about 60 Indians present. Bouis Bordeaux, interpreter.

Inspector MCLAUGHLIN. My friends, you have sent me word that you wish to see me this morning, and I am now very glad to meet you here so early this morning, and any information you wish or any questions you wish to ask I am ready to answer. I know that you are in a hurry to get out to your corral to-day and to reach your homes, and it is very commendable of you calling upon me before leaving for your homes.

I am now ready to listen to what you have to say.

CROW DOG. You came here last spring asking me if I wanted to sell my land, but I told you we would consider the matter, as I did not want to do anything in a hurry. Sometimes white men come here in a surly manner, and with papers with them, and they make us think that we must do as they want us to, because we are ignorant and do not know whether we have to or not, so that we generally do as they want us to do. But my heart is good toward you for what you have said to us. Did you say that if we dispose of this land down near the Missouri River, in Gregory County, it would leave our reservation the same size as Pine Ridge Reservation, or that you would give us that much from the Pine Ridge Reservation?

Inspector MCLAUGHLIN. I said that if you sell that piece of land in Gregory County for which I am negotiating with you, it would leave your reservation about the same size as Pine Ridge Reservation.

CROW DOG. The reason that I ask you about this is because I did not understand. We have decided that we want \$5 an acre for the land. All these people, they have allotments, but their children ought to have this land. The Great Father has begun to take slices of our land from us. I am afraid of that. He has also begun to take off our children's rations. I am afraid of that. I would like to see some of the provisions that were in the former treaties carried out fully before we make any more treaties. I do not know just what it was, but there were things in the former treaties that were not carried out, and after they are carried out, then we will feel more like making another. For my part, I do not want to say a word that would displease you, nor do I want you to say a word to displease me. While I am not a chief or a noted man, yet I know that the Great Father is anxious to know about and cares for his most humble children.

The Great Father gives the children to-day all the opportunities possible to obtain a good education, which will enable them to be more useful and imitate the white men's ways, and I often regret that my early youth was not favored with the opportunities that are afforded the children to-day. The Great Father took a number of our children away to school, and about a hundred of them died there, but that did not fill us with any spirit of resentment. But the benefit they derive from attendance at school, of course, returns to us ultimately. I talked with you on this matter some time ago and to-day, and would be pleased to present my views on any other occasion that you wish to have an expression from us.

HIGH HAWK. We are here talking about this treaty, and you are having it reported and will take a copy of it home with you; and we would like to have you translate it into Indian and give us a copy to take home with us, one for each band of Indians.

In talking here about this treaty yesterday, some of us said one thing and some another, but there was no uniformity or sentiment. Some of the people don't want to sell at all, but I and many others want to sell it if we can get \$5 an acre for the land.

After we get a copy of these proceedings and take it home with us and deliberate upon it a few days, we can come to a decision and return you a definite answer. In regard to the stock cattle which you spoke about buying for us, I know that they would be a good investment, and then those other things—would the money for their purchase have to come out of the proceeds of our land? There are a number of things in the agreement you want to make with us that don't suit me, and about half of our people want to go home and reject your proposition altogether, but the rest of us have decided to stay here awhile yet and help you, and see if we can not come to some agreement.

HE DOG. My friend, I am the man that belonged to Spotted Tail's council; that is the reason that I came here singing yesterday. I will not say much, but the price of the land is \$5 per acre. I came here yesterday and sat there, and did not run away from you, as some of them did, but waited till you got through. If all these people had selected a man to talk to you on this subject with authority, it might have been different altogether. Now, I want those papers that they spoke of to be sent to all the camps.

LITTLE CROW. You will take this that we have been saying home to the Great Father. I see, my friend, that all

these people don't want to sell; but if you will offer them \$5 an acre all the people will come back and be willing to sell the land. If you will go and tell the Great Father what we say, then come and bring us his answer, then we will consider it. In closing I will say that whatever I have said before I stand by now.

LITTLE WOUND. My friend, I am going to talk to you very briefly. The nations are sitting here, and we say \$5 an acre, and we depend upon you for that. Yesterday there were a lot of them that did not want to sell, and I am kind of ashamed of that. Of course, my friend, you have to say \$2.50 per acre, but I believe you will give more than that. I was going to say some other things, but my friend here wants to speak, so I will refrain from further speech.

LANCE. Some of the people are not strong; they are weak; but I am not that way. I would like to have you send the propositions of yours to each camp. Then it will do them good, and their heart will be good, and they will have an opportunity to consider your proposals. Whenever the white men send a man here with kind words for us I like it. That is good, and I will listen to him. I deem it worth while to consider the matter that you have brought before us.

EAGLE HORSE. I just wish to say a few short words. I spoke briefly yesterday, and my people wished me to say again to-day that we want \$5 an acre for the land. What I was afraid of was that you would not offer over \$1.25 an acre, but my people want more than that, so we could not accept that.

Inspector MCLAUGHLIN. I just doubled that, you know.

EAGLE HORSE. We will go home and think over this matter and give you a definite answer later. I am glad that my friends spoke about getting a copy of the proceedings, for we ought to have one of them in each band.



Inspector MCLAUGHLIN. In relation to the papers that you want submitted to you, I will have a number of copies of my proposition written out and submit them to you, which will explain my offer just as I made it to you. I will have them translated into Sioux, so that you can read them in your own language, and will have them ready in a short time.

I am very much pleased with this council this morning and you having called upon me so soon after the council of yesterday, as it shows that you are considering the matter, and it is my desire that you understand everything very fully and clearly before we start in making an agreement, or before I leave here, giving up the work entirely. I wish you to understand everything fully and clearly, and in having this proposition on paper it gives you an opportunity to study and understand it very clearly.

I have told you before that I am here entirely for this one matter, and my time is going to be devoted to it only. While I would like to get through with the business as soon as possible, at the same time I do not wish to hurry you. I will give you all the time that you wish; that is, provided that there is a probability of our entering into an agreement; but if there is no probability of our entering into an agreement, if you have made up your minds to keep your ears closed, it would be useless for me to continue longer. But, as you have requested, I will prepare those papers for each district, so that you may have them and consider the matter; and I hope that you will be able to give me a decisive answer by next Saturday, so that I may know whether it will be an object for me to continue longer or to abandon the work. I received a letter from the Secretary the night before last ordering me to California to purchase lands there from the whites for the location of Indians upon them. The

Indians have no lands there. He wants me to reach there as soon as possible, but he did not want me to hurry, but to finish up here first; and therefore I would like to know whether it is going to be of interest to you people for me to remain longer or say that we will bring this council to a close. So I will prepare the papers and have them ready as soon as possible.

LONG WARRIOR. My friend, the nations here they want something. We have considered your proposition and put down on paper the amount we ask for the land, and that is what we want. Of course, you know that you want it one way and we Indians want it another way. We consider you as a man and we want you to consider us as men. Others have said that they wanted to stand by you in this matter, and I want to say the same. Another thing I wish to say is that in the past whenever a new treaty is made it covers up the old one. I am tired of that.

In Crook's treaty there was something that was forgotten, but I hope that in this treaty that that which was forgotten in that treaty be fixed up in this. In regard to these things you suppose to buy with the \$40,000, we can look into that matter ourselves. The Government has given you power as inspector, and they want you to do all you can to help the Indians. I suppose you think that I am not a man of any importance, and I am not, but still I am a man of my word.

Whenever a man comes here to make a treaty there is no shame about him. He tells lots of lies to us. On that account whatever this nation (the Indians) asks for I wish you would try and get for them. You may consider this a rather small treaty, but to me it is a big one. We hardly ever make a treaty but what there is some trouble about it, but we don't want it to be so with this one.

In regard to those papers which you are going to send out to each band, we thank you for that.



EAGLE PIPE. There is a man sitting here who has come to make a treaty, but we can not make the treaty unless we can come to some conclusion that will be satisfactory to us as well as him.

GEORGE GOOD SHIELD. My friend, the people here have been disputing a few days, but they have come to no conclusion. Now, I always say that if a man says anything, that must go, but if a man says anything bad, that never goes. You all know that in the past in making treaties they always had a heading to it, but in this case now they don't; everything is all mixed up badly.

In the past in making treaties we always got \$1.25 and acre for it, but in making this treaty we ask \$3 an acre for the land, and we will not go any farther than that. So, my friend, we want \$3 an acre for the land, and if you will not pay that there is no use talking about it any more.

GRAY EAGLE TAIL. You came here last spring when we had the smallpox and we did not have much of a council, but now we have come together again for that same thing. But the people are divided in sentiment, and I don't know which way it will go. One thing I want you to see about: When we want anything we send a letter down to Washington, but those small letters the Great Father does now see at all, so that my thoughts does not reach him at all and he does not give us the things we ask for.

I have five sons, and if they were here they would do as I want them to, but they have gone off with a show, and so they can not vote on this question you have brought to us.

RUNS CLOSE TO VILLAGE. Yesterday there was some pulling back by the young men about 18 years old. They said that they had not received their allotments, and there is some hardship yet.

We offer this \$5 merely as a proposition for you to think about. When you speak about making another

treaty, we think about the Black Hills treaty, and are sorry about it. We came here to live, and I can not agree to what you say.

DOG TRAIL. You come here to represent the Secretary. I am a chief, and also a councilman. I am chief for the children, according to the Indian custom. The Great Father has to make laws for the children of this agency. He ought to make a law that there would be only one kind of treatment for the whole people, old and young, upon the reservation. Then the people could come together and be well off if they would make that law for them. We could have sheep and hogs and take up the white man's customs. We ought to have a landmark down by the Missouri River where the reservation ends, and any cattle found on this side of that should belong to the Indians, no matter who they belonged to. If these things are done for us, we will fix things up and have houses, with nice things inside, just as the white man does.

Inspector MCLAUGHLIN. I want to say a word now. This council has been quite a lengthy one, and I am glad that you people seem to begin to consider this matter. I will prepare the papers as I have proposed to and get them out of you as soon as I can; but, as you heard me say in full council yesterday, it would be useless for me to make an agreement that I know would not be approved by the Secretary or ratified by Congress.

The price that you ask, \$5 an acre, is unreasonable and double what the land is worth. My offer to you of \$2.50 an acre is very liberal and full value for those lands. I am glad that there are a certain number of you that look at this in that light, because a very sensible remark came from the sergeant. He said that you were willing to fix the price at \$3 an acre, and that is coming pretty close to an agreement.

Now, when I spoke yesterday about the fence and about building dams in your creeks and building reservoirs, I did not say that that was compulsory at all. I simply suggested that. That is for you to consider. Now, it has been suggested to me since by different parties that a great benefit would accrue to you people by giving you lumber. I would concur in anything of that kind that would be best to incorporate into the agreement.

These are matters for you to consider, and when I give you my proposition upon the paper and the different conditions of the proposed agreement, then you can take it out and consider it and then return to me and we will reach an agreement.

Council convened at 2 p.m., September 14, 1901, with about 200 Indians present. Louis Bordeaux, interpreter.

Inspector MCLAUGHLIN. My friends, from a number of talks that I have had with leading men and other members of your tribe since last Wednesday I have prepared an agreement with the proposition that I made you last Tuesday, which I will read to you. (Reads the agreement.)

I have now read this agreement to you and want to hear what you have to say in regard to it. Your interests are fully protected, and I hope it will meet your approval. This is written in pencil. If it meets your approval, I will have it typewritten in duplicate, leaving one copy at your agency and the other for signatures by you people, which will be forwarded by me.

HIGH HAWK. I wish to speak first in regard to what you say about fence and dams and lumber. Please let us settle that ourselves.

Inspector MCLAUGHLIN. I will answer you now. I first mentioned the fence and dams and reservoirs, but found that there was a great deal of opposition to the fence—that very few of you wanted the fence—and

therefore I dropped that. I compromised with you on that. A number of you suggested lumber, and I thought that was an excellent idea, and I accepted the lumber suggestion and dropped the fence.

HIGH HAWK. We don't want any fence or reservoirs or dams, and, while we want lumber, we would like to get the cash and then buy the lumber ourselves. There is cattle on one side and cash money on the other side. I want it that way, so that we can get part in cash and the remainder in cattle.

I would like to have the \$40,000 be in cash payment, and so that the children born hereafter would be entitled to it and the heirs of those who are dead would be entitled to their share. You promised the lumber to us once, but there was not enough to go around, so only a few got any and it did not do good. Some man will get this money, and he will buy the lumber himself. We have accepted this \$2.50—the four bands of us have agreed to take that. My band agrees to take it and He Dog's band and Bull Nation's band, and the Black Pipe people are only a little ways off. The Cut Meat and Spring Creek districts will sign the agreement first. I have already selected four things to buy to spend my money on.

HE DOG. My friend, we say this: It will be \$2.50 an acre. Four of our bands have agreed to that, and we have done well. You speak about using the \$40,000 to build fences, dams, and reservoirs and to buy windmills and lumber. Lots of our young men are hard up and want that money to buy things they need.

LONG WARRIOR. My friend, my people have selected certain men to speak to you on this matter, and I am one of the number chosen for that purpose.

First, we want this: We want the mixed bloods to stay with us permanently. Second, we want our wives that have taken allotments to be paid the same as the Indian



men. Also there are some 18 years old that have never been paid, and we want them paid. We want the children to get their lands hereafter.

In regard to reservoirs and dams and lumber and fence, we don't want them at all. We want to get the money cash and buy whatever we want. These things which I make mention of we want to have specified in the treaty so that they will be permanent.

**BULL NATION.** They say that there are four bands that have decided to accept your proposition. I want the treaty to be this way: We don't want fence, dams, reservoir, or lumber, but we want the money in cash. If I receive the money in cash it will be what I want; it will be a benefit to me. This \$40,000 I want to be given us as a cash payment, too. We want the heirs to receive the money for those who have died, and the children born later also to receive their share.

**Agent MCCHESENEY.** I will say that the money to be expended in dams and reservoirs could not be better expended for any purpose. As you people know, there are six full townships on the eastern portion of your reserve which are not now available for grazing cattle because there is no water on them to support the cattle. If there was water there you could have had cattle there this year under grazing permits, and you would have derived five or six thousand dollars from that source this last year. The Indians living along Butte Creek and White Thunder and Oak Creek complain of the scarcity of water on their allotments. Those streams have gone dry in the past few years, and you have been unable, some of you, to keep your cattle near your homes. Now, if a portion of this \$40,000 was expended in dams along those streams and in those six townships that I have named, and in some other portions of your reserve, I believe that you would have an abundance of water for your stock. As I

said before, I don't believe you could expend that money in a better way than for dams and lumber. You could not put it into anything that would benefit you more, and I would recommend that you consider this matter as well and see if you can not all come to the same conclusion. It is not a large sum of money, and you would not feel it out of your cash payment. A considerable portion of it anyway would go back into your own pockets for work performed on the dams.

**STRANGER HORSE.** You asked us to be quiet and listen carefully to what you had to read, and we have listened very carefully. But my people do not like that which you have read. I thought you came here for the land and all the power you had was to set the price of the land. We do not know just what to do. We are all mixed up. In regard to those improvements that you and the agent suggest, I want to know if an Indian is going to have the management of building these reservoirs and dams in case we accept that proposition. It has always been that in any work of that kind at the agency the white man gets the big job and the most money and the Indians that work under him get small pay. That is the way it has been done in the past. I did not say our agent did that himself, but the people from the Department at Washington send them here.

We now know that if that is one of the conditions of your proposition that we can not come to any agreement to-day. The Indians have considered certain plans which would be best for them. Now, we want this \$40,000 included in the first cash payment. Now, my friend, my people have agreed to your proposition in every other respect, but we want this \$40,000 given us in cash, and if we can get that we will be willing to accept as low as \$2.50 an acre for the land. If you will make this kind of payment, it will help the young man that is just married.



Inspector MCLAUGHLIN. I supposed that you all understood the proposition, for I reduced it to writing, preparing several of the copies in English and quite a number in Sioux, and sent them out among all the Indians—that is, to the different subissue stations—so you know exactly what my proposition is and have deliberated upon it; and if you have decided upon rejecting, then, of course, I can not help it. That is one of the propositions. The others I see you are satisfied with, and I want you to think further and let me know when I return.

(Inspector McLaughlin then retires from the council chamber for a few minutes, and upon returning resumes the discussion.)

Inspector MCLAUGHLIN. Well, I have returned to receive your answer.

RALPH EAGLE FEATHER. Four bands have counceled, and we have appointed a committee to come here and see you in regard to your proposition.

FRED BIG HORSE. The Indians can build dams and reservoirs themselves where they are needed without any pay; but we want the \$40,000 paid to us in cash.

PICKET PIN. All the people belonging to the Rosebud Indians are here. Whenever the Great Father promises pay, all the people in Rosebud gets that. If you wish this matter to be settled quietly, we want you to go to each station and have a talk with them. This matter has been considered among the Indians and mixed bloods. I never try to pull the people about, for I belong to all the people, and this is for all of them. My friend, you are going to be slow about it; that is good.

Inspector MCLAUGHLIN: My friends. I see that you are determined not to accept that \$40,000 clause that I had prepared in the agreement, I have advanced all the arguments bearing upon it, and your agent has done the

same—arguments that we knew would be for your best interests if they are accepted by you people—and I had relied very largely upon the provision—that \$40,000 clause—to aid me in presenting this matter to the Department so that it would receive Department approval and ratification by Congress, and it is with great reluctance that I drop that section of that particular article; but to let you see that I want to meet you as far as is possible to go I will call that \$40,000 a cash payment to be equalized among the others; that is, making five equal cash payments of \$790,000 instead of \$750,000, as I first proposed. That will give you \$158,000 each payment for five years, a total of \$790,000. Now, does that meet your approval? [Indians indicate approval.] I will read you this Article III of the agreement as it will now stand.

(The inspector reads the amended article.)

Inspector MCLAUGHLIN. Does that meet your approval? [Further indications of approval from Indians.] Well, I will prepare this and have it ready for your signatures.

I certify that the above is a true transcript of the councils held as above stated.

V. A. HOLBROOK,  
*Assistant Clerk. italics,*

ROSEBUD AGENCY, S. DAK., *September 21, 1901.*

This agreement made and entered into on the fourteenth day of September, nineteen hundred and one, by and between James McLaughlin, United States Indian Inspector, on the part of the United States, and the Sioux tribe of Indians belonging on the Rosebud Reservation, in the State of South Dakota, witnesseth:  
ARTICLE I. The said Indians belonging on the Rosebud Reservation, South Dakota, for the considera-

tion hereinafter named, do hereby cede, surrender, grant, and convey to the United States all their claim, right, title, and interest in and to all that part of the Rosebud Indian Reservation now remaining unallotted, situated within the boundaries of Gregory County, South Dakota, described more particularly as follows: Commencing in the middle of the main channel of the Missouri River at the intersection of the south line of Brule County; thence down said middle of the main channel of said river to the intersection of the ninety-ninth degree of west longitude from Greenwich; thence due south to the forty-third parallel of latitude; thence west along said parallel of latitude to its intersection with the tenth guide meridian; thence north along said guide meridian to its intersection with the township line between townships one hundred and one hundred and one, north; thence east along said township line to the point of beginning, the unallotted land hereby ceded approximating four hundred and sixteen thousand (426,000) acres, lying and being within the boundaries of Gregory County, South Dakota, as said county is at present defined and organized.

ART. II. In consideration of the land ceded, relinquished, and conveyed by Article I of this agreement, the United States stipulates and agrees to expend for and pay to said Indians, in the matter hereinafter provided, the sum of one million and forty thousand (1,040,000) dollars.

ART. III. It is agreed that of the amount to be expended for and paid to said Indians, as stipulated in Article II of this agreement, the sum of two hundred and fifty thousand (250,000) dollars shall be expended in the purchase of stock cattle of native range or graded Texas two-year-old heifers and graded Durham or Hereford two-year-old bulls for issue to said Indians, to be distributed as equally as possible among men, women,

and children as soon as practicable after the ratification of this agreement, and that the sum of seven hundred and ninety thousand (790,000) dollars shall be paid to said Indians per capita, in cash, in five annual installments of one hundred and fifty-eight thousand (158,000) dollars each, the first of which cash payments shall be made within four months after the ratification of this agreement.

ART. IV. It is further agreed that all persons of the Rosebud Indian Reservation, South Dakota, who have been allotted lands and who are now recognized as members of the tribe belonging on said reservation, including mixed bloods, whether their white blood comes from the paternal or maternal side, and the children born to them, shall enjoy the undisturbed and peaceable possession of their allotted lands and shall be entitled to all the rights and privileges of the tribe enjoyed by full-blood Indians upon the reservation, and that white men heretofore lawfully intermarried into the tribe and now living with their families upon said reservation shall have the right of residence thereon not inconsistent with existing statutes.

ART. V. It is understood that nothing in this agreement shall be construed to deprive the said Indians of the Rosebud Reservation, South Dakota, of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement.

ART. VI. This agreement shall take effect and be in force when signed by United States Indian Inspector James McLaughlin and by three-fourth of the male adult Indians, parties hereto, and when accepted and ratified by the Congress of the United States.

In witness whereof the said James McLaughlin, United States Indian Inspector, on the part of the United States,



and the male adult Indians belonging to the Rosebud Reservation, South Dakota, have hereunto set their hands and seals at Rosebud Indian Agency, South Dakota, this fourteenth day of September, A.D. nineteen hundred and one.

**JAMES MCLAUGHLIN,**  
*United States Indian Inspector.*

| No. | Mark.                   | Age. | No. | Mark.                            | Age. |
|-----|-------------------------|------|-----|----------------------------------|------|
| 1   | He Dog                  | x 65 | 55  | Wm. Neck                         | x 27 |
| 2   | High Hawk               | x 50 | 56  | Little Thunder                   | x 50 |
| 3   | Black Bird              | x 32 | 57  | Frank Little Thunder             | x 21 |
| 4   | Wm. J. Barker           | x 32 | 58  | Never Miss a Shot                | x 50 |
| 5   | Picket Pin              | x 30 | 59  | Whipple Never Miss a Shot        | x 27 |
| 6   | Running Horse           | x 16 | 60  | Bear in the Woods No. 2          | x 43 |
| 7   | Picket Pin Charles      | x 32 | 61  | Joseph Fire Heart                | x 18 |
| 8   | Henry Fast Bull         | x 26 | 62  | Eagle Thunder                    | x 70 |
| 9   | Feather Man             | x 35 | 63  | Black Ring                       | x 50 |
| 10  | Hand                    | x 29 | 64  | Poor                             | x 46 |
| 11  | Peter Bear Cat          | x 21 | 65  | George Black Ring                | x 39 |
| 12  | Ring Cloud              | x 27 | 66  | White Blackbird                  | x 30 |
| 13  | William Picket Pin      | x 68 | 67  | Raymond Stuart                   | x 34 |
| 14  | Bear in the Woods       | x 32 | 68  | Stands on the Island             | x 64 |
| 15  | William Eagle Thunder   | x 36 | 69  | Running Horse                    | x 36 |
| 16  | George Hills            | x 32 | 70  | Benjamin Running Horse           | x 29 |
| 17  | John Yellow Elk         | x 26 | 71  | Fred Hagerse                     | x 38 |
| 18  | Eagle Man No. 1         | x 46 | 72  | Ear Ring                         | x 49 |
| 19  | John Eagle Hawk         | x 53 | 73  | Yellow Thunder                   | x 44 |
| 20  | Good Shield             | x 32 | 74  | Dog Trail                        | x 43 |
| 21  | James Bearman           | x 51 | 75  | Two Lance                        | x 71 |
| 22  | William Swimmer         | x 34 | 76  | Coffee                           | x 19 |
| 23  | Black Bear              | x 56 | 77  | Lost His Blanket                 | x 39 |
| 24  | Sharp Fish              | x 19 | 78  | Walter Bites as he Snaks         | x 67 |
| 25  | Martin Sharp Fish       | x 51 | 79  | Little Crow                      | x 54 |
| 26  | High Bald Eagle         | x 47 | 80  | Lance                            | x 49 |
| 27  | George Stead            | x 24 | 81  | Tools                            | x 39 |
| 28  | Moses White Turtle      | x 19 | 82  | Joseph Little Brave              | x 52 |
| 29  | Robert He Dog           | x 31 | 83  | Wolf Guts                        | x 31 |
| 30  | Black Spotted Horse     | x 18 | 84  | Bull Nation                      | x 25 |
| 31  | Charles Good Shield     | x 18 | 85  | Joseph Larvie                    | x 25 |
| 32  | Frederick Good Shield   | x 21 | 86  | James Runs Close to Vil-<br>lage | x 29 |
| 33  | Allen Good Shield       | x 42 | 87  | Richard Larvie                   | x 44 |
| 34  | Hunts Horses            | x 18 | 88  | Sweet House                      | x 34 |
| 35  | Ernest Swimmer          | x 35 | 89  | Running Bear                     | x 31 |
| 36  | Little Sack             | x 41 | 90  | Leading Fighter                  | x 27 |
| 37  | Bull Bat                | x 54 | 91  | Arrow Side                       | x 72 |
| 38  | Chasing Hawk No. 2      | x 54 | 92  | White Horse                      | x 18 |
| 39  | King Man                | x 32 | 93  | Clark Little Thunder             | x 39 |
| 40  | At the Straight         | x 78 | 94  | Two Teeth                        | x 12 |
| 41  | Wolf Hide               | x 26 | 95  | Arm                              | x 74 |
| 42  | Black Elk               | x 66 | 96  | Moccasin                         | x 28 |
| 43  | Thigh                   | x 29 | 97  | Let Them Have Enough             | x 64 |
| 44  | Fred Ashley             | x 19 | 98  | Smashed Ice                      | x 39 |
| 45  | Alex Whipple            | x 30 | 99  | Crow Dog                         | x 56 |
| 46  | Spotted Elk             | x 35 | 100 | His Horse Chasing                | x 21 |
| 47  | Porcupine               | x 53 | 101 | Avenger Bull Nation              | x 55 |
| 48  | Big Crow                | x 18 | 102 | Little                           | x 37 |
| 49  | Henry Big Crow          | x 25 | 103 | Brave Hawk                       | x 77 |
| 50  | Harry Charge on Him     | x 18 | 104 | White Thunder                    | x 28 |
| 51  | John Runs Close to Edge | x 21 | 105 | Charles White Thunder            | x 26 |
| 52  | Louis Eagle Hawk        | x 41 | 106 | Red Thunder                      | x 21 |
| 53  | Ralph Eagle Feather     | x 27 | 107 | James White Face                 | x 21 |
| 54  | Samuel Bordenax         | x 27 |     |                                  |      |

| No. | Mark.                             | Age. | No. | Mark.                         | Age. |
|-----|-----------------------------------|------|-----|-------------------------------|------|
| 108 | Good Kill                         | x 36 | 178 | Two Hawk                      | x 50 |
| 109 | Amos Moccasin                     | x 39 | 179 | Crow Eagle                    | x 58 |
| 110 | Horse Good Voice                  | x 47 | 180 | Dog Eye                       | x 10 |
| 111 | Silas P. Walker                   | x 53 | 181 | Six Toes                      | x 66 |
| 112 | Amos Walker                       | x 23 | 182 | Six Toes Joseph               | x 29 |
| 113 | Little Wound                      | x 54 | 183 | Henry Charging Bear           | x 26 |
| 114 | Oliver Little Wound               | x 22 | 184 | Charging Bear                 | x 54 |
| 115 | Good Elk No. 1                    | x 28 | 185 | William Charging Bear         | x 24 |
| 116 | Little Bald Eagle                 | x 56 | 186 | Rex Charging Bear             | x 22 |
| 117 | Samuel Little Bald Eagle          | x 24 | 187 | Hugh Charging Bear            | x 29 |
| 118 | White Eagle                       | x 27 | 188 | Stephen Murray                | x 40 |
| 119 | Bad Hand                          | x 41 | 189 | Wooden Ring                   | x 39 |
| 120 | Leader                            | x 32 | 190 | Charles Owns the Battle       | x 50 |
| 121 | James Smashed Ice                 | x 18 | 191 | Eagle Horse                   | x 44 |
| 122 | One Butte                         | x 63 | 192 | Thomas Larvie                 | x 38 |
| 123 | Howard One Butte                  | x 20 | 193 | Hawk Ghost                    | x 34 |
| 124 | Runs Rockless                     | x 34 | 194 | Little Knife                  | x 46 |
| 125 | Bull Eater                        | x 36 | 195 | White Crane Walking           | x 62 |
| 126 | Julian Fire Heart Bear            | x 38 | 196 | James Red Weasel              | x 19 |
| 127 | Fire Heart                        | x 74 | 197 | Shook at Hail                 | x 49 |
| 128 | War Bonnet                        | x 31 | 198 | Eagle Horse No. 1             | x 52 |
| 129 | Joseph Owl Eagle                  | x 27 | 199 | Owl Eagle                     | x 57 |
| 130 | Paul Sitting Bear                 | x 25 | 200 | Ugly Wild Horse               | x 50 |
| 131 | Sitting Bear                      | x 65 | 201 | Crow Head                     | x 68 |
| 132 | Crow                              | x 47 | 202 | Peter Thompson                | x 24 |
| 133 | Walter Leads His Horse            | x 21 | 203 | Crow Eagle                    | x 48 |
| 134 | Richard Night Chase               | x 39 | 204 | Bear Shirt                    | x 48 |
| 135 | Gilbert Little Chief              | x 30 | 205 | White Buffalo Chief           | x 43 |
| 136 | James Little Chief                | x 27 | 206 | Samuel White Buffalo<br>Chief | x 18 |
| 137 | Walking Bull                      | x 31 | 207 | Stands By Them                | x 16 |
| 138 | James White Turtle                | x 21 | 208 | Win Bear                      | x 35 |
| 139 | Edward Face Darkling              | x 26 | 209 | Eagle Wolf                    | x 51 |
| 140 | Walking Soldier                   | x 37 | 210 | Silas Light in the Lodge      | x 24 |
| 141 | Elk                               | x 32 | 211 | Leads Horse                   | x 54 |
| 142 | Runs Over Them                    | x 34 | 212 | Andrew Long Warrior           | x 29 |
| 143 | Lone Elk                          | x 49 | 213 | Black Bull                    | x 21 |
| 144 | Paul Lone Elk                     | x 23 | 214 | William Black Bull            | x 24 |
| 145 | George Lone Elk                   | x 45 | 215 | No Eyes                       | x 28 |
| 146 | Lone Dog                          | x 36 | 216 | Long Necked Yankton           | x 50 |
| 147 | White Face Woman                  | x 39 | 217 | Silas Kutepl                  | x 29 |
| 148 | Star Boy                          | x 26 | 218 | Short Name                    | x 82 |
| 149 | Lee Black Crow                    | x 18 | 219 | Charles Castaway              | x 21 |
| 150 | Black Mountain Sheep              | x 36 | 220 | Shoot at Him                  | x 54 |
| 151 | Black Hawk                        | x 32 | 221 | Comes From Among              | x 37 |
| 152 | Black Moon                        | x 45 | 222 | Makes Good                    | x 50 |
| 153 | Daniel Comes from War             | x 26 | 223 | Samuel Makes Good             | x 21 |
| 154 | Without a Bow                     | x 50 | 224 | Comes Out Bull                | x 44 |
| 155 | William Little Elk                | x 23 | 225 | Woods Father                  | x 34 |
| 156 | Joseph Good                       | x 43 | 226 | Zander Big Crow               | x 25 |
| 157 | Grabbing Bear                     | x 29 | 227 | White Turtle                  | x 65 |
| 158 | Harry Little Tail                 | x 44 | 228 | Alex Larvie                   | x 41 |
| 159 | Howard Little Tail                | x 18 | 229 | Plenty Bull                   | x 48 |
| 160 | Luther Little Tail                | x 19 | 230 | Kills In Sight                | x 52 |
| 161 | Jacob Standing Bull               | x 21 | 231 | Good Fox                      | x 55 |
| 162 | Plenty Horses                     | x 54 | 232 | Not Stampede                  | x 48 |
| 163 | Donald Eagle Hawk                 | x 22 | 233 | Good Boy                      | x 48 |
| 164 | Sack                              | x 50 | 234 | Crow Good Voice               | x 16 |
| 165 | Sleeping Bear                     | x 51 | 235 | Brave Bird                    | x 32 |
| 166 | Frank Sleeping Bear               | x 21 | 236 | Brave Bear                    | x 32 |
| 167 | Eagle Deer                        | x 53 | 237 | Charles White Thunder         | x 37 |
| 168 | Charging Cat                      | x 50 | 238 | Half Medicine                 | x 61 |
| 169 | Scott Charging Cat                | x 29 | 239 | Harry Hall Medicine<br>(Pipe) | x 18 |
| 170 | Owns the Battle                   | x 39 | 240 | David Jumping Elk             | x 21 |
| 171 | Amos Wooden Knife                 | x 41 | 241 | Levi Eagle Chief              | x 61 |
| 172 | Wooden Knife                      | x 61 | 242 | Jumping Elk                   | x 43 |
| 173 | Bull Dog                          | x 71 | 243 | Beaver                        | x 42 |
| 174 | Leslie Wood Knife                 | x 29 | 244 | Kills Last                    | x 37 |
| 175 | Runs Close to Village             | x 51 | 245 | White Bird Johnny             | x 29 |
| 176 | Jonah Runs Close to Vil-<br>lage  | x 21 | 246 | Medicine                      | x 49 |
| 177 | Joseph Runs Close to Vil-<br>lage | x 23 | 247 | Pup                           | x 49 |



| No. | Mark. | Age. | No. | Mark. | Age. |
|-----|-------|------|-----|-------|------|
| 218 | X     | 63   | 339 | X     | 31   |
| 219 | X     | 36   | 340 | X     | 62   |
| 220 | X     | 54   | 341 | X     | 65   |
| 221 | X     | 34   | 342 | X     | 20   |
| 222 | X     | 60   | 343 | X     | 15   |
| 223 | X     | 31   | 344 | X     | 40   |
| 224 | X     | 31   | 345 | X     | 32   |
| 225 | X     | 25   | 346 | X     | 31   |
| 226 | X     | 20   | 347 | X     | 31   |
| 227 | X     | 22   | 348 | X     | 22   |
| 228 | X     | 22   | 349 | X     | 22   |
| 229 | X     | 22   | 350 | X     | 22   |
| 230 | X     | 22   | 351 | X     | 22   |
| 231 | X     | 22   | 352 | X     | 22   |
| 232 | X     | 22   | 353 | X     | 22   |
| 233 | X     | 22   | 354 | X     | 22   |
| 234 | X     | 22   | 355 | X     | 22   |
| 235 | X     | 22   | 356 | X     | 22   |
| 236 | X     | 22   | 357 | X     | 22   |
| 237 | X     | 22   | 358 | X     | 22   |
| 238 | X     | 22   | 359 | X     | 22   |
| 239 | X     | 22   | 360 | X     | 22   |
| 240 | X     | 22   | 361 | X     | 22   |
| 241 | X     | 22   | 362 | X     | 22   |
| 242 | X     | 22   | 363 | X     | 22   |
| 243 | X     | 22   | 364 | X     | 22   |
| 244 | X     | 22   | 365 | X     | 22   |
| 245 | X     | 22   | 366 | X     | 22   |
| 246 | X     | 22   | 367 | X     | 22   |
| 247 | X     | 22   | 368 | X     | 22   |
| 248 | X     | 22   | 369 | X     | 22   |
| 249 | X     | 22   | 370 | X     | 22   |
| 250 | X     | 22   | 371 | X     | 22   |
| 251 | X     | 22   | 372 | X     | 22   |
| 252 | X     | 22   | 373 | X     | 22   |
| 253 | X     | 22   | 374 | X     | 22   |
| 254 | X     | 22   | 375 | X     | 22   |
| 255 | X     | 22   | 376 | X     | 22   |
| 256 | X     | 22   | 377 | X     | 22   |
| 257 | X     | 22   | 378 | X     | 22   |
| 258 | X     | 22   | 379 | X     | 22   |
| 259 | X     | 22   | 380 | X     | 22   |
| 260 | X     | 22   | 381 | X     | 22   |
| 261 | X     | 22   | 382 | X     | 22   |
| 262 | X     | 22   | 383 | X     | 22   |
| 263 | X     | 22   | 384 | X     | 22   |
| 264 | X     | 22   | 385 | X     | 22   |
| 265 | X     | 22   | 386 | X     | 22   |
| 266 | X     | 22   | 387 | X     | 22   |
| 267 | X     | 22   | 388 | X     | 22   |
| 268 | X     | 22   | 389 | X     | 22   |
| 269 | X     | 22   | 390 | X     | 22   |
| 270 | X     | 22   | 391 | X     | 22   |
| 271 | X     | 22   | 392 | X     | 22   |
| 272 | X     | 22   | 393 | X     | 22   |
| 273 | X     | 22   | 394 | X     | 22   |
| 274 | X     | 22   | 395 | X     | 22   |
| 275 | X     | 22   | 396 | X     | 22   |
| 276 | X     | 22   | 397 | X     | 22   |
| 277 | X     | 22   | 398 | X     | 22   |
| 278 | X     | 22   | 399 | X     | 22   |
| 279 | X     | 22   | 400 | X     | 22   |
| 280 | X     | 22   | 401 | X     | 22   |
| 281 | X     | 22   | 402 | X     | 22   |
| 282 | X     | 22   | 403 | X     | 22   |
| 283 | X     | 22   | 404 | X     | 22   |
| 284 | X     | 22   | 405 | X     | 22   |
| 285 | X     | 22   | 406 | X     | 22   |
| 286 | X     | 22   | 407 | X     | 22   |
| 287 | X     | 22   | 408 | X     | 22   |
| 288 | X     | 22   | 409 | X     | 22   |
| 289 | X     | 22   | 410 | X     | 22   |
| 290 | X     | 22   | 411 | X     | 22   |
| 291 | X     | 22   | 412 | X     | 22   |
| 292 | X     | 22   | 413 | X     | 22   |
| 293 | X     | 22   | 414 | X     | 22   |
| 294 | X     | 22   | 415 | X     | 22   |
| 295 | X     | 22   | 416 | X     | 22   |
| 296 | X     | 22   | 417 | X     | 22   |
| 297 | X     | 22   | 418 | X     | 22   |
| 298 | X     | 22   | 419 | X     | 22   |
| 299 | X     | 22   | 420 | X     | 22   |
| 300 | X     | 22   | 421 | X     | 22   |
| 301 | X     | 22   | 422 | X     | 22   |
| 302 | X     | 22   | 423 | X     | 22   |
| 303 | X     | 22   | 424 | X     | 22   |
| 304 | X     | 22   | 425 | X     | 22   |
| 305 | X     | 22   | 426 | X     | 22   |
| 306 | X     | 22   | 427 | X     | 22   |
| 307 | X     | 22   | 428 | X     | 22   |
| 308 | X     | 22   | 429 | X     | 22   |
| 309 | X     | 22   | 430 | X     | 22   |
| 310 | X     | 22   | 431 | X     | 22   |
| 311 | X     | 22   | 432 | X     | 22   |
| 312 | X     | 22   | 433 | X     | 22   |
| 313 | X     | 22   | 434 | X     | 22   |
| 314 | X     | 22   | 435 | X     | 22   |
| 315 | X     | 22   | 436 | X     | 22   |
| 316 | X     | 22   | 437 | X     | 22   |
| 317 | X     | 22   | 438 | X     | 22   |
| 318 | X     | 22   | 439 | X     | 22   |
| 319 | X     | 22   | 440 | X     | 22   |

| No. | Mark. | Age. | No. | Mark. | Age. |
|-----|-------|------|-----|-------|------|
| 282 | X     | 19   | 464 | X     | 31   |
| 283 | X     | 19   | 465 | X     | 31   |
| 284 | X     | 19   | 466 | X     | 31   |
| 285 | X     | 19   | 467 | X     | 31   |
| 286 | X     | 19   | 468 | X     | 31   |
| 287 | X     | 19   | 469 | X     | 31   |
| 288 | X     | 19   | 470 | X     | 31   |
| 289 | X     | 19   | 471 | X     | 31   |
| 290 | X     | 19   | 472 | X     | 31   |
| 291 | X     | 19   | 473 | X     | 31   |
| 292 | X     | 19   | 474 | X     | 31   |
| 293 | X     | 19   | 475 | X     | 31   |
| 294 | X     | 19   | 476 | X     | 31   |
| 295 | X     | 19   | 477 | X     | 31   |
| 296 | X     | 19   | 478 | X     | 31   |
| 297 | X     | 19   | 479 | X     | 31   |
| 298 | X     | 19   | 480 | X     | 31   |
| 299 | X     | 19   | 481 | X     | 31   |
| 300 | X     | 19   | 482 | X     | 31   |
| 301 | X     | 19   | 483 | X     | 31   |
| 302 | X     | 19   | 484 | X     | 31   |
| 303 | X     | 19   | 485 | X     | 31   |
| 304 | X     | 19   | 486 | X     | 31   |
| 305 | X     | 19   | 487 | X     | 31   |
| 306 | X     | 19   | 488 | X     | 31   |
| 307 | X     | 19   | 489 | X     | 31   |
| 308 | X     | 19   | 490 | X     | 31   |
| 309 | X     | 19   | 491 | X     | 31   |
| 310 | X     | 19   | 492 | X     | 31   |
| 311 | X     | 19   | 493 | X     | 31   |
| 312 | X     | 19   | 494 | X     | 31   |
| 313 | X     | 19   | 495 | X     | 31   |
| 314 | X     | 19   | 496 | X     | 31   |
| 315 | X     | 19   | 497 | X     | 31   |
| 316 | X     | 19   | 498 | X     | 31   |
| 317 | X     | 19   | 499 | X     | 31   |
| 318 | X     | 19   | 500 | X     | 31   |
| 319 | X     | 19   | 501 | X     | 31   |
| 320 | X     | 19   | 502 | X     | 31   |
| 321 | X     | 19   | 503 | X     | 31   |
| 322 | X     | 19   | 504 | X     | 31   |
| 323 | X     | 19   | 505 | X     | 31   |
| 324 | X     | 19   | 506 | X     | 31   |
| 325 | X     | 19   | 507 | X     | 31   |
| 326 | X     | 19   | 508 | X     | 31   |
| 327 | X     | 19   | 509 | X     | 31   |
| 328 | X     | 19   | 510 | X     | 31   |
| 329 | X     | 19   | 511 | X     | 31   |
| 330 | X     | 19   | 512 | X     | 31   |
| 331 | X     | 19   | 513 | X     | 31   |
| 332 | X     | 19   | 514 | X     | 31   |
| 333 | X     | 19   | 515 | X     | 31   |
| 334 | X     | 19   | 516 | X     | 31   |
| 335 | X     | 19   | 517 | X     | 31   |
| 336 | X     | 19   | 518 | X     | 31   |
| 337 | X     | 19   | 519 | X     | 31   |
| 338 | X     | 19   | 520 | X     | 31   |
| 339 | X     | 19   | 521 | X     | 31   |
| 340 | X     | 19   | 522 | X     | 31   |
| 341 | X     | 19   | 523 | X     | 31   |
| 342 | X     | 19   | 524 | X     | 31   |
| 343 | X     | 19   | 525 | X     | 31   |
| 344 | X     | 19   | 526 | X     | 31   |
| 345 | X     | 19   | 527 | X     | 31   |
| 346 | X     | 19   | 528 | X     | 31   |
| 347 | X     | 19   | 529 | X     | 31   |
| 348 | X     | 19   | 530 | X     | 31   |
| 349 | X     | 19   | 531 | X     | 31   |
| 350 | X     | 19   | 532 | X     | 31   |
| 351 | X     | 19   | 533 | X     | 31   |
| 352 | X     | 19   | 534 | X     | 31   |
| 353 | X     | 19   | 535 | X     | 31   |
| 354 | X     | 19   | 536 | X     | 31   |
| 355 | X     | 19   | 537 | X     | 31   |
| 356 | X     | 19   | 538 | X     | 31   |
| 357 | X     | 19   | 539 | X     | 31   |
| 358 | X     | 19   | 540 | X     | 31   |
| 359 | X     | 19   | 541 | X     | 31   |
| 360 | X     | 19   | 542 | X     | 31   |
| 361 | X     | 19   | 543 | X     | 31   |
| 362 | X     | 19   | 544 | X     | 31   |
| 363 | X     | 19   | 545 | X     | 31   |
| 364 | X     | 19   | 546 | X     | 31   |
| 365 | X     | 19   | 547 | X     | 31   |
| 366 | X     | 19   | 548 | X     | 31   |
| 367 | X     | 19   | 549 | X     | 31   |
| 368 | X     | 19   | 550 | X     | 31   |
| 369 | X     | 19   | 551 | X     | 31   |
| 370 | X     | 19   | 552 | X     | 31   |
| 371 | X     | 19   | 553 | X     | 31   |
| 372 | X     | 19   | 554 | X     | 31   |
| 373 | X     | 19   | 555 | X     | 31   |
| 374 | X     | 19   | 556 | X     | 31   |
| 375 | X     | 19   | 557 | X     | 31   |
| 376 | X     | 19   | 558 | X     | 31   |
| 377 | X     | 19   | 559 | X     | 31   |
| 378 | X     | 19   | 560 | X     | 31   |
| 379 | X     | 19   | 561 | X     | 31   |
| 380 | X     | 19   | 562 | X     | 31   |
| 381 | X     | 19   | 563 | X     | 31   |
| 382 | X     | 19   | 564 | X     | 31   |
| 383 | X     | 19   | 565 | X     | 31   |
| 384 | X     | 19   | 566 | X     | 31   |
| 385 | X     | 19   | 567 | X     | 31   |
| 386 | X     | 19   | 568 | X     | 31   |
| 387 | X     | 19   | 569 | X     | 31   |
| 388 | X     | 19   | 570 | X     | 31   |
| 389 | X     | 19   | 571 | X     | 31   |
| 390 | X     | 19   | 572 | X     | 31   |
| 391 | X     | 19   | 573 | X     | 31   |
| 392 | X     | 19   | 574 | X     | 31   |
| 393 | X     | 19   | 575 | X     | 31   |
| 394 | X     | 19   | 576 | X     | 31   |
| 395 | X     | 19   | 577 | X     | 31   |
| 396 | X     | 19   | 578 | X     | 31   |
| 397 | X     | 19   | 579 | X     | 31   |
| 398 | X     | 19   | 580 | X     | 31   |
| 399 | X     | 19   | 581 | X     | 31   |
| 400 | X     | 19   | 582 | X     | 31   |
| 401 | X     | 19   | 583 | X     | 31   |
| 402 | X     | 19   | 584 | X     | 31   |
| 403 | X     | 19   | 585 | X     | 31   |
| 404 | X     | 19   | 586 | X     | 31   |
| 405 | X     | 19   | 587 | X     | 31   |
| 406 | X     | 19   | 588 | X     | 31   |
| 407 | X     | 19   | 589 | X     | 31   |
| 408 | X     | 19   | 590 | X     | 31   |
| 409 | X     | 19   | 591 | X     | 31   |
| 410 | X     | 19   | 592 | X     | 31   |
| 411 | X     | 19   | 593 | X     | 31   |
| 412 | X     | 19   | 594 | X     | 31   |
| 413 | X     | 19   | 595 | X     | 31   |
| 414 | X     | 19   | 596 | X     | 31   |
| 415 | X     | 19   | 597 | X     | 31   |
| 416 | X     | 19   | 598 | X     | 31   |
| 417 | X     | 19   | 599 | X     | 31   |
| 418 | X     | 19   | 600 | X     | 31   |

| No. | Mark. | Age. | No. | Mark. | Age. |
|-----|-------|------|-----|-------|------|
| 535 |       |      | 624 |       |      |
| 536 |       |      | 625 |       |      |
| 537 |       |      | 626 |       |      |
| 538 |       |      | 627 |       |      |
| 539 |       |      | 628 |       |      |
| 540 |       |      | 629 |       |      |
| 541 |       |      | 630 |       |      |
| 542 |       |      | 631 |       |      |
| 543 |       |      | 632 |       |      |
| 544 |       |      | 633 |       |      |
| 545 |       |      | 634 |       |      |
| 546 |       |      | 635 |       |      |
| 547 |       |      | 636 |       |      |
| 548 |       |      | 637 |       |      |
| 549 |       |      | 638 |       |      |
| 550 |       |      | 639 |       |      |
| 551 |       |      | 640 |       |      |
| 552 |       |      | 641 |       |      |
| 553 |       |      | 642 |       |      |
| 554 |       |      | 643 |       |      |
| 555 |       |      | 644 |       |      |
| 556 |       |      | 645 |       |      |
| 557 |       |      | 646 |       |      |
| 558 |       |      | 647 |       |      |
| 559 |       |      | 648 |       |      |
| 560 |       |      | 649 |       |      |
| 561 |       |      | 650 |       |      |
| 562 |       |      | 651 |       |      |
| 563 |       |      | 652 |       |      |
| 564 |       |      | 653 |       |      |
| 565 |       |      | 654 |       |      |
| 566 |       |      | 655 |       |      |
| 567 |       |      | 656 |       |      |
| 568 |       |      | 657 |       |      |
| 569 |       |      | 658 |       |      |
| 570 |       |      | 659 |       |      |
| 571 |       |      | 660 |       |      |
| 572 |       |      | 661 |       |      |
| 573 |       |      | 662 |       |      |
| 574 |       |      | 663 |       |      |
| 575 |       |      | 664 |       |      |
| 576 |       |      | 665 |       |      |
| 577 |       |      | 666 |       |      |
| 578 |       |      | 667 |       |      |
| 579 |       |      | 668 |       |      |
| 580 |       |      | 669 |       |      |
| 581 |       |      | 670 |       |      |
| 582 |       |      | 671 |       |      |
| 583 |       |      | 672 |       |      |
| 584 |       |      | 673 |       |      |
| 585 |       |      | 674 |       |      |
| 586 |       |      | 675 |       |      |
| 587 |       |      | 676 |       |      |
| 588 |       |      | 677 |       |      |
| 589 |       |      | 678 |       |      |
| 590 |       |      | 679 |       |      |
| 591 |       |      | 680 |       |      |
| 592 |       |      | 681 |       |      |
| 593 |       |      | 682 |       |      |
| 594 |       |      | 683 |       |      |
| 595 |       |      | 684 |       |      |
| 596 |       |      | 685 |       |      |
| 597 |       |      | 686 |       |      |
| 598 |       |      | 687 |       |      |
| 599 |       |      | 688 |       |      |
| 600 |       |      | 689 |       |      |
| 601 |       |      | 690 |       |      |
| 602 |       |      | 691 |       |      |
| 603 |       |      | 692 |       |      |
| 604 |       |      | 693 |       |      |
| 605 |       |      | 694 |       |      |
| 606 |       |      | 695 |       |      |
| 607 |       |      | 696 |       |      |
| 608 |       |      | 697 |       |      |
| 609 |       |      | 698 |       |      |
| 610 |       |      | 699 |       |      |
| 611 |       |      | 700 |       |      |
| 612 |       |      | 701 |       |      |
| 613 |       |      | 702 |       |      |
| 614 |       |      | 703 |       |      |
| 615 |       |      | 704 |       |      |
| 616 |       |      | 705 |       |      |
| 617 |       |      | 706 |       |      |
| 618 |       |      | 707 |       |      |
| 619 |       |      | 708 |       |      |
| 620 |       |      | 709 |       |      |
| 621 |       |      | 710 |       |      |
| 622 |       |      | 711 |       |      |
| 623 |       |      | 712 |       |      |
| 624 |       |      | 713 |       |      |
| 625 |       |      | 714 |       |      |
| 626 |       |      | 715 |       |      |
| 627 |       |      | 716 |       |      |
| 628 |       |      | 717 |       |      |
| 629 |       |      | 718 |       |      |
| 630 |       |      | 719 |       |      |
| 631 |       |      | 720 |       |      |
| 632 |       |      | 721 |       |      |
| 633 |       |      | 722 |       |      |
| 634 |       |      | 723 |       |      |
| 635 |       |      | 724 |       |      |
| 636 |       |      | 725 |       |      |
| 637 |       |      | 726 |       |      |
| 638 |       |      | 727 |       |      |
| 639 |       |      | 728 |       |      |
| 640 |       |      | 729 |       |      |
| 641 |       |      | 730 |       |      |
| 642 |       |      | 731 |       |      |
| 643 |       |      | 732 |       |      |
| 644 |       |      | 733 |       |      |
| 645 |       |      | 734 |       |      |
| 646 |       |      | 735 |       |      |
| 647 |       |      | 736 |       |      |
| 648 |       |      | 737 |       |      |
| 649 |       |      | 738 |       |      |
| 650 |       |      | 739 |       |      |
| 651 |       |      | 740 |       |      |
| 652 |       |      | 741 |       |      |
| 653 |       |      | 742 |       |      |
| 654 |       |      | 743 |       |      |
| 655 |       |      | 744 |       |      |
| 656 |       |      | 745 |       |      |
| 657 |       |      | 746 |       |      |
| 658 |       |      | 747 |       |      |
| 659 |       |      | 748 |       |      |
| 660 |       |      | 749 |       |      |
| 661 |       |      | 750 |       |      |
| 662 |       |      | 751 |       |      |
| 663 |       |      | 752 |       |      |
| 664 |       |      | 753 |       |      |
| 665 |       |      | 754 |       |      |
| 666 |       |      | 755 |       |      |
| 667 |       |      | 756 |       |      |
| 668 |       |      | 757 |       |      |
| 669 |       |      | 758 |       |      |
| 670 |       |      | 759 |       |      |
| 671 |       |      | 760 |       |      |
| 672 |       |      | 761 |       |      |
| 673 |       |      | 762 |       |      |
| 674 |       |      | 763 |       |      |
| 675 |       |      | 764 |       |      |
| 676 |       |      | 765 |       |      |
| 677 |       |      | 766 |       |      |
| 678 |       |      | 767 |       |      |
| 679 |       |      | 768 |       |      |
| 680 |       |      | 769 |       |      |
| 681 |       |      | 770 |       |      |
| 682 |       |      | 771 |       |      |
| 683 |       |      | 772 |       |      |
| 684 |       |      | 773 |       |      |
| 685 |       |      | 774 |       |      |
| 686 |       |      | 775 |       |      |
| 687 |       |      | 776 |       |      |
| 688 |       |      | 777 |       |      |
| 689 |       |      | 778 |       |      |
| 690 |       |      | 779 |       |      |
| 691 |       |      | 780 |       |      |
| 692 |       |      | 781 |       |      |
| 693 |       |      | 782 |       |      |
| 694 |       |      | 783 |       |      |
| 695 |       |      | 784 |       |      |
| 696 |       |      | 785 |       |      |
| 697 |       |      | 786 |       |      |
| 698 |       |      | 787 |       |      |
| 699 |       |      | 788 |       |      |
| 700 |       |      | 789 |       |      |
| 701 |       |      | 790 |       |      |
| 702 |       |      | 791 |       |      |
| 703 |       |      | 792 |       |      |
| 704 |       |      | 793 |       |      |
| 705 |       |      | 794 |       |      |
| 706 |       |      | 795 |       |      |
| 707 |       |      | 796 |       |      |
| 708 |       |      | 797 |       |      |
| 709 |       |      | 798 |       |      |
| 710 |       |      | 799 |       |      |
| 711 |       |      | 800 |       |      |
| 712 |       |      | 801 |       |      |
| 713 |       |      | 802 |       |      |
| 714 |       |      | 803 |       |      |
| 715 |       |      | 804 |       |      |
| 716 |       |      | 805 |       |      |
| 717 |       |      | 806 |       |      |
| 718 |       |      | 807 |       |      |
| 719 |       |      | 808 |       |      |
| 720 |       |      | 809 |       |      |
| 721 |       |      | 810 |       |      |
| 722 |       |      | 811 |       |      |
| 723 |       |      | 812 |       |      |
| 724 |       |      | 813 |       |      |
| 725 |       |      | 814 |       |      |
| 726 |       |      | 815 |       |      |
| 727 |       |      | 816 |       |      |
| 728 |       |      | 817 |       |      |
| 729 |       |      | 818 |       |      |
| 730 |       |      | 819 |       |      |
| 731 |       |      | 820 |       |      |
| 732 |       |      | 821 |       |      |
| 733 |       |      | 822 |       |      |
| 734 |       |      | 823 |       |      |
| 735 |       |      | 824 |       |      |
| 736 |       |      | 825 |       |      |
| 737 |       |      | 826 |       |      |
| 738 |       |      | 827 |       |      |
| 739 |       |      | 828 |       |      |
| 740 |       |      | 829 |       |      |
| 741 |       |      | 830 |       |      |
| 742 |       |      | 831 |       |      |
| 743 |       |      | 832 |       |      |
| 744 |       |      | 833 |       |      |
| 745 |       |      | 834 |       |      |
| 746 |       |      | 835 |       |      |
| 747 |       |      | 836 |       |      |
| 748 |       |      | 837 |       |      |
| 749 |       |      | 838 |       |      |
| 750 |       |      | 839 |       |      |
| 751 |       |      | 840 |       |      |
| 752 |       |      | 841 |       |      |
| 753 |       |      | 842 |       |      |
| 754 |       |      | 843 |       |      |
| 755 |       |      | 844 |       |      |
| 756 |       |      | 845 |       |      |
| 757 |       |      | 846 |       |      |
| 758 |       |      | 847 |       |      |
| 759 |       |      | 848 |       |      |
| 760 |       |      | 849 |       |      |
| 761 |       |      | 850 |       |      |
| 762 |       |      | 851 |       |      |
| 763 |       |      | 852 |       |      |
| 764 |       |      | 853 |       |      |
| 765 |       |      | 854 |       |      |
| 766 |       |      | 855 |       |      |
| 767 |       |      | 856 |       |      |
| 768 |       |      | 857 |       |      |
| 769 |       |      | 858 |       |      |
| 770 |       |      | 859 |       |      |
| 771 |       |      | 860 |       |      |
| 772 |       |      | 861 |       |      |
| 773 |       |      | 862 |       |      |
| 774 |       |      | 863 |       |      |
| 775 |       |      | 864 |       |      |
| 776 |       |      | 865 |       |      |
| 777 |       |      | 866 |       |      |
| 778 |       |      | 867 |       |      |
| 779 |       |      | 868 |       |      |
| 780 |       |      | 869 |       |      |
| 781 |       |      | 870 |       |      |
| 782 |       |      | 871 |       |      |
| 783 |       |      | 872 |       |      |
| 784 |       |      | 873 |       |      |
| 785 |       |      | 874 |       |      |
| 786 |       |      | 875 |       |      |
| 787 |       |      | 876 |       |      |
| 788 |       |      | 877 |       |      |
| 789 |       |      | 878 |       |      |
| 790 |       |      | 879 |       |      |
| 791 |       |      | 880 |       |      |
| 792 |       |      | 881 |       |      |
| 793 |       |      | 882 |       |      |
| 794 |       |      | 883 |       |      |
| 795 |       |      | 884 |       |      |
| 796 |       |      | 885 |       |      |
| 797 |       |      | 886 |       |      |
| 798 |       |      | 887 |       |      |
| 799 |       |      | 888 |       |      |
| 800 |       |      | 889 |       |      |
| 801 |       |      | 890 |       |      |
| 802 |       |      | 891 |       |      |
| 803 |       |      | 892 |       |      |
| 804 |       |      | 893 |       |      |
| 805 |       |      | 894 |       |      |
| 806 |       |      | 895 |       |      |
| 807 |       |      | 896 |       |      |
| 808 |       |      | 897 |       |      |
| 809 |       |      | 898 |       |      |
| 810 |       |      | 899 |       |      |
| 811 |       |      | 900 |       |      |
| 812 |       |      | 901 |       |      |
| 813 |       |      | 902 |       |      |
| 814 |       |      | 903 |       |      |
| 815 |       |      | 904 |       |      |
| 816 |       |      | 905 |       |      |
| 817 |       |      | 906 |       |      |
| 818 |       |      | 907 |       |      |
| 819 |       |      | 908 |       |      |
| 820 |       |      | 909 |       |      |
| 821 |       |      | 910 |       |      |
| 822 |       |      | 911 |       |      |
| 823 |       |      | 912 |       |      |
| 824 |       |      | 913 |       |      |
| 825 |       |      | 914 |       |      |
| 826 |       |      | 915 |       |      |
| 827 |       |      | 916 |       |      |
| 828 |       |      | 917 |       |      |
| 829 |       |      | 918 |       |      |
| 830 |       |      | 919 |       |      |
| 831 |       |      | 920 |       |      |
| 832 |       |      | 921 |       |      |
| 833 |       |      | 922 |       |      |
| 834 |       |      | 923 |       |      |
| 835 |       |      | 924 |       |      |
| 836 |       |      | 925 |       |      |
| 837 |       |      | 926 |       |      |
| 838 |       |      | 927 |       |      |
| 839 |       |      | 928 |       |      |
| 840 |       |      | 929 |       |      |
| 841 |       |      | 930 |       |      |
| 842 |       |      | 931 |       |      |
| 843 |       |      | 932 |       |      |
| 844 |       |      | 933 |       |      |
| 845 |       |      | 934 |       |      |
| 846 |       |      | 935 |       |      |
| 847 |       |      | 936 |       |      |
| 848 |       |      | 937 |       |      |
| 849 |       |      | 938 |       |      |
| 850 |       |      | 939 |       |      |
| 851 |       |      | 940 |       |      |
| 852 |       |      | 941 |       |      |
| 853 |       |      | 942 |       |      |
| 854 |       |      | 943 |       |      |
| 855 |       |      | 944 |       |      |
| 856 |       |      | 945 |       |      |
| 857 |       |      | 946 |       |      |
| 858 |       |      | 947 |       |      |
| 859 |       |      | 948 |       |      |
| 860 |       |      | 949 |       |      |
| 861 |       |      | 950 |       |      |
| 862 |       |      | 951 |       |      |
| 863 |       |      | 952 |       |      |
| 864 |       |      | 953 |       |      |
| 865 |       |      | 954 |       |      |
| 866 |       |      | 955 |       |      |

| No. | Mark                            | Age | No. | Mark                     | Age |
|-----|---------------------------------|-----|-----|--------------------------|-----|
| 818 | Slow Thunder                    | X   | 887 | Bone Shirt If            | X   |
| 819 | James Guerne                    | X   | 888 | Stampede                 | X   |
| 820 | Thomas Bridgman                 | X   | 889 | Iron Truck               | X   |
| 821 | John Cordier, Jr.               | X   | 890 | Eugene Little            | X   |
| 822 | Charles Cordier                 | X   | 891 | Jesse Eagle Elk          | X   |
| 823 | Charles Campbell                | X   | 892 | William Thunderhawk      | X   |
| 824 | Henry Iott                      | X   | 893 | Four Feather             | X   |
| 825 | Apple                           | X   | 894 | Black Spotted Horse      | X   |
| 826 | David Bearhead                  | X   | 895 | Joseph Little Hawk       | X   |
| 827 | William P. Makes Noise in Woods | X   | 896 | Henry Horse Looking      | X   |
| 828 | Paul Light                      | X   | 897 | Bear Horse               | X   |
| 829 | Bad Gun                         | X   | 898 | Morris Walker            | X   |
| 830 | Peter Greenwood                 | X   | 899 | James Small Bear         | X   |
| 831 | Four Horns                      | X   | 900 | Bobtail Bear             | X   |
| 832 | Little Horns                    | X   | 901 | Lawrence Cotten          | X   |
| 833 | Frank Four Horns                | X   | 902 | Charles Tall Woman       | X   |
| 834 | Stephen Walking Eagle           | X   | 903 | George Giroux            | X   |
| 835 | Benny                           | X   | 904 | Two Charge               | X   |
| 836 | Nosy Owl                        | X   | 905 | Goes to War              | X   |
| 837 | Goes Among Amos                 | X   | 906 | Swimming Skunk           | X   |
| 838 | Hugo Hollow Horn Eagle          | X   | 907 | Jack Bear Looks Behind   | X   |
| 839 | Lame Dog Peter                  | X   | 908 | Daniel Hollow Horn Bear  | X   |
| 840 | Oliver Eagle Feather            | X   | 909 | Henry Hollow Horn Bear   | X   |
| 841 | Red Tomahawk Thomas             | X   | 910 | John Hollow Horn Bear    | X   |
| 842 | Kills Enemy                     | X   | 911 | Sunday                   | X   |
| 843 | Little Soldier Joseph           | X   | 912 | David Eastman            | X   |
| 844 | Louis Metcalfe                  | X   | 913 | Stone Arrow              | X   |
| 845 | William Bridgman                | X   | 914 | Francis Stone Arrow      | X   |
| 846 | James Two Horse                 | X   | 915 | Joseph Turgeon           | X   |
| 847 | Frank Growling Running Bear     | X   | 916 | Samuel Emery             | X   |
| 848 | John Grabbing Bear              | X   | 917 | Thomas Scissous          | X   |
| 849 | Amos Prairie Dog                | X   | 918 | John Douville            | X   |
| 850 | Makes Room for Them, Martin     | X   | 919 | Henry Hudson             | X   |
| 851 | Emil Head                       | X   | 920 | Noble Lunderman          | X   |
| 852 | Lee Spotted Calf                | X   | 921 | Charles Lunderman        | X   |
| 853 | Iron Boy Edward                 | X   | 922 | Foster Thunder Hawk      | X   |
| 854 | Charles White Hat               | X   | 923 | White Shoulder           | X   |
| 855 | James Stead                     | X   | 924 | Paul May                 | X   |
| 856 | Running                         | X   | 925 | Two Nation Silas         | X   |
| 857 | Ernest Running                  | X   | 926 | David Two Nation         | X   |
| 858 | Grease                          | X   | 927 | Ring Bull                | X   |
| 859 | Flying Above                    | X   | 928 | Yellow Horse             | X   |
| 860 | Iron Nest Paul                  | X   | 929 | James Take Him Off       | X   |
| 861 | Felix Little Hawk               | X   | 930 | James Black Bonnet       | X   |
| 862 | Oliver Yellow Hair              | X   | 931 | Isadore Gunhammer        | X   |
| 863 | Boat Nail                       | X   | 932 | Snow Fly                 | X   |
| 864 | Bernard Boat Nail               | X   | 933 | William Greyhound        | X   |
| 865 | Fast Dog No. 1                  | X   | 934 | James Roberts            | X   |
| 866 | Charles Crazy Cat               | X   | 935 | Paul Afraid of Bear      | X   |
| 867 | Lays on his Belly               | X   | 936 | Left Hand Bull           | X   |
| 868 | Looks Good                      | X   | 937 | Solomon Old Lodge        | X   |
| 869 | Tail Face                       | X   | 938 | Willus Pretty Voice Hawk | X   |
| 870 | Francis Roast                   | X   | 939 | Joseph Thunder           | X   |
| 871 | Red Star                        | X   | 940 | Samuel Forked Tail       | X   |
| 872 | Mule Head                       | X   | 941 | James Stoneman           | X   |
| 873 | Alex Long Pumpkin               | X   | 942 | John King                | X   |
| 874 | Long Pumpkin                    | X   | 943 | Edward Long Crow         | X   |
| 875 | Fire Thunder                    | X   | 944 | Edward Crooked Foot      | X   |
| 876 | John High Shield                | X   | 945 | Samuel No Moccasins      | X   |
| 877 | Jesse White Latex               | X   | 946 | Henry Hair               | X   |
| 878 | Joseph White Latex              | X   | 947 | White Whirlwind          | X   |
| 879 | White Latex                     | X   | 948 | Curtis Forked Tail       | X   |
| 880 | No Water                        | X   | 949 | Joshua Good Eagle        | X   |
| 881 | Shorty                          | X   | 950 | John Gasman              | X   |
| 882 | Marshal Bad Milk                | X   | 951 | Moses Elk Whistle        | X   |
| 883 | Red Feather                     | X   | 952 | Standing Cloud           | X   |
| 884 | James Sky Bull                  | X   | 953 | Rising Dust              | X   |
| 885 | Sky Bull                        | X   | 954 | Abraham Turgeon          | X   |
| 886 | Leading Horse                   | X   | 955 | Black Jumper             | X   |
|     |                                 |     | 956 | Dallas Shaw              | X   |
|     |                                 |     | 957 | Herman Crooked Foot      | X   |
|     |                                 |     | 958 | Plum Man                 | X   |

| No. | Mark                 | Age | No.  | Mark                           | Age |
|-----|----------------------|-----|------|--------------------------------|-----|
| 959 | Henry Thin Elk       | X   | 1000 | Owens the Battle               | X   |
| 960 | Two Eagle            | X   | 1001 | Slow Eagle                     | X   |
| 961 | Night Shield         | X   | 1002 | Six Shooter                    | X   |
| 962 | Broken Leg           | X   | 1003 | Henry Turning Bear             | X   |
| 963 | Chester Broken Leg   | X   | 1004 | Split White Blanket            | X   |
| 964 | James Broken Leg     | X   | 1005 | Tall Mandan                    | X   |
| 965 | Doctor               | X   | 1006 | Hurry Fling Horse              | X   |
| 966 | Under the Water      | X   | 1007 | Benjamin Hungry                | X   |
| 967 | Allen Broken Leg     | X   | 1008 | Alex Turning Hawk              | X   |
| 968 | John Elk Looks Back  | X   | 1009 | Ring                           | X   |
| 969 | Elk Looks Back       | X   | 1010 | Hungry                         | X   |
| 970 | Buffalo Eater        | X   | 1011 | James McCloskey                | X   |
| 971 | Big Corn             | X   | 1012 | Charles Blair                  | X   |
| 972 | John Shooting Cat    | X   | 1013 | Peter Decory                   | X   |
| 973 | Young Iron Shell     | X   | 1014 | Benjamin Decory                | X   |
| 974 | Frank Iron Shell     | X   | 1015 | Alphonse N. Charbonneau (Alex) | X   |
| 975 | William Iron Shell   | X   | 1016 | Paul A. Charbonneau            | X   |
| 976 | Dog Owner            | X   | 1017 | John Decory                    | X   |
| 977 | Louis Dog Owner      | X   | 1018 | John Cordier, sr.              | X   |
| 978 | Daniel Roan Horse    | X   | 1019 | Paul Didier                    | X   |
| 979 | Brave Bird           | X   | 1020 | Louis Dutton                   | X   |
| 980 | Bear Dog             | X   | 1021 | James Schwagman                | X   |
| 981 | Yellow Water         | X   | 1022 | William Stroup                 | X   |
| 982 | John Bird Necklace   | X   | 1023 | John Yellow Wolf               | X   |
| 983 | Kills Him Alice      | X   | 1024 | Henry Quick Bear               | X   |
| 984 | August Shield Him    | X   | 1025 | Bear Shield                    | X   |
| 985 | Aloysius Brown       | X   | 1026 | James Bear Shield              | X   |
| 986 | George Walking Eagle | X   | 1027 | Albert Crazy Bear              | X   |
| 987 | John Walking Eagle   | X   | 1028 | Looking White                  | X   |
| 988 | Walking Eagle        | X   | 1029 | Spotted Owl                    | X   |
| 989 | Scar Tail            | X   | 1030 | Yellow Hair Bear               | X   |
| 990 | Whirlwind Bear       | X   | 1031 | Point at Him                   | X   |
| 991 | Titus Scout          | X   |      |                                |     |
| 992 | John Colombe         | X   |      |                                |     |
| 993 | Christopher Colombe  | X   |      |                                |     |
| 994 | Edward Colombe       | X   |      |                                |     |
| 995 | George McCloskey     | X   |      |                                |     |

We, the undersigned, hereby certify that the foregoing agreement was fully explained by us in open council to the Indians of the Rosebud Agency, S. Dak.; that it was fully understood by them before signing, and that the foregoing signatures, though names are similar in some cases, represent different individuals in each instance, as indicated by their respective ages.

WILLIAM BORDEAUX,  
Official Interpreter.  
WM. F. SCHMIDT,  
Special Interpreter.



ROSEBUD AGENCY, S. DAK., *October 4, 1901.*

We, the undersigned, do hereby certify that we witnessed the signatures of James McLaughlin, United States Indian inspector, and the 1,031 Indians of the Rosebud Agency, S. Dak., to the foregoing agreement.

FRANK MULLEN,  
*Agency Clerk.*

C. H. BENNETT,  
*Farmer, Cut Meat District.*

JOHN SULLIVAN,  
*Farmer, Black Pipe District.*

FRANK ROBINSON,  
*Farmer, Little White River District.*

FRANK SYPAL,  
*Farmer, Butte Creek District.*

ISAAC BETTELYOUN,  
*Farmer, Big White River District.*

JAMES A. MCCORKLE,  
*Farmer, Ponca District.*

LOUIS BORDEAUX,  
*Ex-Farmer, Agency District.*

ROSEBUD AGENCY, S. DAK., *October 4, 1901.*

I certify that the total number of male adult Indians over 18 years of age belonging on the Rosebud Reservation, S. Dak., is 1,359, of whom 1,031 have signed the foregoing agreement, being 12 more than three-fourths of the male adult Indians of the Rosebud Reservation, S. Dak.

CHAS. E. MCCHESENEY,  
*United States Indian Agent.*

ROSEBUD AGENCY, S. DAK., *October 4, 1901.*

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
*Washington, November 23, 1901.*

SIR: The office has the honor to acknowledge the receipt of a letter dated October 11, 1901, from the Acting Secretary of the Interior, transmitting a report by United States Indian Inspector James McLaughlin, dated October 5, 1901, with which he inclosed an agreement dated September 11, 1901, with the Indians of the Rosebud Reservation, in South Dakota, providing for the cession of the unallotted portion of their lands embraced in Gregory County. In his said letter the Acting Secretary directed that if the office, after consideration, finds no objection to the approval of said agreement, proper report be prepared for presentation to Congress with a view to the ratification of the agreement.

The question of securing the cession of the lands referred to was first suggested during the first session of the Fifty-sixth Congress, when bills providing for negotiations to that end were introduced. Aside from the fact that the lands in question, which are not being used by the Indians, are very desirable for agricultural purposes, the main reason put forward for having the lands opened up was that at the present time the larger portion of Gregory County was embraced in the Indian reserve, so that it was difficult for the remainder of the county to maintain the county organization.

The office has also had a great deal of correspondence with the people at large during the past two years in reference to the opening of said lands.

No Congressional authority for conducting negotiations, however, was granted until, by a provision contained in the last Indian appropriation act, approved March 3, 1901, the Secretary of the Interior was authorized, in his discretion, to negotiate through a

United States Indian inspector with any Indians for the cession of portions of their respective reserves. Accordingly, under date of March 19, 1901, a draft of instructions was prepared by this office for the guidance of the United States Indian inspector conducting negotiations with the Rosebud Indians for the lands referred to. Said instructions were approved by the Department on March 21, 1901, and Inspector McLaughlin detailed for the duty of conducting negotiations.

In his report dated October 5, 1901, the inspector states that he arrived at the Rosebud Agency on April 2, 1901, for the purpose of entering upon negotiations with the Indians, and that upon his arrival it was ascertained that smallpox was prevalent on the reservation, wherefore he deemed it advisable to assemble the Indians in general council. He states, however, that he made a trip to the Ponca Creek district, which is in Gregory County, about 100 miles east of the agency, for the purpose of conferring with the Indians there who would be the most affected by the cession, and for the purpose of traveling over that portion of the reserve and securing a knowledge of the lands whose cession it was proposed to secure.

Negotiations having been postponed at that time, with the approval of the Department, the inspector states that he proceeded to carry out orders elsewhere, and returned to the Rosebud Agency on August 28 last and at once entered upon negotiations which, though somewhat protracted and at times discouraging, he says have been satisfactorily concluded.

Article 1 of the agreement concluded by the inspector with said Indians provides that in consideration of the sum thereafter named the Indians cede to the United States all that portion of their reservation not allotted situated and lying east of the tenth guide meridian. Said guide meridian forms the township line between town-

ships 73 and 74 west, and is also the west boundary line of Gregory County, so that the lands ceded embrace all of the Indian reservation not allotted situated in said county.

Article 2 stipulates that in consideration of the cession agreed to by article 1 of the agreement the United States will expend for and pay to the Rosebud Indians the sum of \$1,040,000.

Article 3 provides that \$250,000 shall be expended in the purchase of stock cattle of native range or graded Texas 2-year-old heifers and graded Durham or Hereford 2-year-old bulls for issue to said Indians, the same to be distributed as equally as possible among the men, women, and children as soon as practicable after ratification of the agreement.

This article further provides that the balance of the consideration, \$790,000, shall be paid to the Indians per capita in cash in five annual installments of \$158,000 each, the first of such cash payments to be made within four months after the ratification of the agreement.

Article 4 provides that all persons of the reservation who have received allotments and are now recognized as members of the tribe, belonging on the reservation, including mixed-bloods, whether their white blood comes from the paternal or maternal side, and the children born to them, shall enjoy the undisturbed and peaceable possession of their allotted lands, and shall be entitled to all the rights and privileges enjoyed by full-blood Indians. This article further provides that white men therefore lawfully intermarried into the tribe and now living with their families upon the reserve shall have the right of residence thereon not inconsistent with existing statutes.

Article 5 provides that nothing in the agreement shall be construed to deprive the Indians of any benefits to which they are entitled under existing treaties or agree-



ments not inconsistent with the provisions of this agreement.

Article 6 stipulates that the agreement shall not take effect and be in force until the same is accepted and ratified by the Congress of the United States.

The agreement is dated September 14, 1901, and contains the signatures of James McLaughlin, United States Indian inspector, and of 1,031 male adult Indians of the reservation. A certificate dated October 4, 1901, by William Bordeaux, official interpreter, and William F. Schmidt, special interpreter, is appended to the agreement to the effect that the provisions thereof were fully explained by them to the Indians in open council, that it was fully understood by them before signing, and that the signatures, though the names are similar in some cases, represent different individuals in each instance, as indicated by their respective ages.

Another certificate is attached to the agreement, dated October 4, 1901, by Frank Mullen, agency clerk, and by C. H. Bennett, John Sullivan, Frank Robinson, Frank Sypal, Isaac Bettelyoun, and James A. McCorkle, farmers of the several districts of the reservation, and Louis Bordeaux, ex-farmer of the agency district, to the effect that they witnessed the signatures of United States Indian Inspector McLaughlin and of the 1,031 Indians of the Rosebud Agency to the agreement.

A certificate dated October 4, by United States Indian Agent Charles E. McChesney, is also attached, stating that the total number of male adult Indians over 18 years of age belonging on the reservation is 1,359, of whom 1,031 have signed the agreement, being 12 more than three-fourths of the male adult population of the reservation.

Respecting the terms of the cession, Inspector McLaughlin states in his report that he was greatly handicapped in the beginning by the fact that most of the

Indians who favored a cession at all held the lands at an enormous price—from \$7 to \$15 per acre; that only a very few expressed their willingness to accept as low as \$5 per acre, and this in cash and all in one payment; that upon his arrival all the white men connected with the agency, as well as those of the surrounding country with whom he talked, held the lands in question as worth \$5 per acre; that it appeared that adjacent lands in Gregory County and in Hoyt County, Nebr., were selling at from \$5 to \$10 per acre; that a syndicate of cattle men in Sioux City, Iowa, expressed its willingness to pay \$5 per acre for the entire tract, and that these current rumors and fictitious values placed upon the lands which were circulated among the Indians exercised them very much and had to be overcome by reasoning, which required time and a great amount of patience.

Having been unable to get the Indians to fix a price upon the lands in his first councils with them, the inspector states that in the council held September 12 he made them a flat offer of \$2.50 per acre for the tract, stating that this was double the minimum price of Government lands and full value for their unallotted lands in Gregory County; that whilst he regarded the land worth that amount, it was all that it was worth, and that his offer would not be increased, whereupon a number of the older men withdrew from the council; that, however, he succeeded in having a majority of those assembled remain until another council had been arranged for September 14, on which latter date an agreement was reached.

The inspector refers to the minutes of the council proceedings transmitted with his report as showing the numerous questions raised by the Indians and his answers to their contentions; also, as showing that he finally convinced a number of the leading men of the wisdom of cooperating with him in formulating an agreement.



The inspector states that the land in Gregory County is without doubt the best and most desirable portion of the Rosebud Reservation, and that although the allotments embrace much of the choicest land, yet a great deal of good land remains unallotted. The whole tract, he says, is excellent grazing land, and the greater portion is also good agricultural land, upon which excellent crops can be raised when there is sufficient rainfall during the growing season. He says he regards the compensation stipulated in the agreement as very reasonable and at the same time a fair and just price for the lands.

According to the inspector's report, the area of the portion of the Rosebud Reservation embraced in Gregory County is 521,050.24 acres, of which 104,909 acres have been allotted to 452 Indians, leaving 416,141.24 acres unallotted, which was stated in the agreement as approximating 416,000 acres, for a definite lump sum, at \$2.50 per acre, of \$1,040,000.

The inspector adds that the cession covers 160 acres reserved for the Ponca Creek issue station, 40 acres for the Ponca Creek Day School, 78.76 acres for the Catholic Mission, and two tracts of 80 and 40 acres, respectively, for the Congregational Mission—a total of 398.67 acres thus being reserved.

Respecting the disposition to be made of the proceeds arising from the cession, the inspector states that the stock cattle provided for by article 3 will be of great benefit to the Indians, who have such magnificent stock ranges upon their reservation, and that the cash payment for five years will aid the Indians materially in providing for their family needs during that time, after which the matured cattle, the increase from the stock issued to them, will be marketable and will with proper care give them an annual revenue thereafter. The inspector states that he was very desirous of having the agreement provide

for the construction of dams and reservoirs on arid portions of the reservation, and also for the purchase of lumber for the construction of houses, and that both he and Agent McChesney endeavored by sound reasoning to have the Indians accept such provisions, but to no purpose, they maintaining that those in need of dams could construct the same themselves, and those requiring lumber could purchase it with the money they received as their per capita payments.

They insisted that if lumber were provided for issue to the Indians an equal per capita distribution of it could not be made. The Indians insisted for a long time upon having the entire \$790,000 paid to them in cash in one payment; but the inspector says he finally succeeded in getting their consent to its payment in five annual installments, which he says will approximate about \$30 per capita annually for five years.

The inspector transmits with his report a map, prepared by Special Allotting Agent W. A. Winder, of the portion of the reservation proposed to be ceded, which shows the several Indian allotments therein, with the names of the allottees, and also the unallotted portions; also a package of correspondence had with the State authorities of South Dakota relative to the boundaries of Gregory County, and the description of the eastern portion of the reservation.

In conclusion, the inspector states that he regards the compensation and manner of payment provided in the agreement as just and fair, both to the Indians and to the United States; that the manner of payment was the best, both for the Indians and for the Government, that the Indians would accept; that the stock cattle and the five annual cash payments will be of great benefit to the Indians in giving them a good start toward their self-support. He heartily recommends the approval and ratification of the agreement.

The agreement appears to be properly executed and in form for acceptance and ratification by Congress. It is deemed proper in this connection to refer especially to the provisions of article 4, which are evidently intended to fix the status of mixed-blood Indians upon that reservation, and to insure the undisturbed residence thereon of white men intermarried with the Indians. It does not appear that this provision extends to mixed-bloods as a class any rights or benefits that they did not have before, unless possibly to secure rights to children born of a marriage since the enactment of the provision contained in the Indian appropriation act of June 7, 1897 (30 Stat. p. 62), which reads as follows:

That all children born of a marriage heretofore solemnized between a white man and Indian woman by blood and not by adoption, where said Indian woman is at this time, or was at the time of her death, recognized by the tribe, shall have the same rights and privileges to the property of the tribe to which the mother belongs, or belonged at the time of her death, by blood, and as any other member of the tribe, and no prior act of Congress shall be construed as to bar such child of such right.

Respecting the residence of white men intermarried with Indian women, it may be proper to state that this right has always been extended in such cases and permitted so long as the conduct of such white men on the reservation is not detrimental to the peace and welfare of the Indians. The office sees no serious objection to the embodiment of this article in the agreement.

The compensation agreed upon for the land ceded, amounting to about \$2.50 per acre, is, in the judgment of this office and from the best information obtainable, fair and reasonable. Although it might have been better to

have the consent of the Indians to the disposition of a larger portion of the proceeds, under the direction of the Secretary of the Interior, for their benefit, it will be seen from the report of the inspector and the transcript of council proceedings that the Indians would not consent to the distribution of any portion of the \$790,000 otherwise than in case.

The office has accordingly prepared a draft of a bill embodying the agreement providing for the acceptance and ratification of the agreement. Section 2 of said draft provides for the appropriation of \$408,000, the amount necessary to carry the provisions of articles 2 and 3 of the agreement into effect.

The matter of the disposition of the land ceded is one properly for the Department and the Commissioner of the General Land Office to arrange. It is suggested that such disposition may be provided for by the addition of another section to the draft of the bill inclosed. In this connection it is suggested that the section added should provide for the disposition of the land ceded—

excepting such tracts as may be reserved by the President, not exceeding 398.67 acres in all, for subissue station, Indian day school, one Catholic mission, and two Congregational missions.

Besides the draft of the bill in duplicate, there are transmitted herewith two copies of the agreement, two copies of the council proceedings, two copies of correspondence had by Inspector McLaughlin with the State authorities of South Dakota respecting the boundaries of Gregory County, two blue prints of map, and two copies of this report, with the recommendation that one copy of each be transmitted to the Senate and House of Representatives, respectively, with request for favorable action on the agreement.



The original agreement and papers accompanying the same are transmitted herewith, with the request that they be returned to the files of this office when the same shall have served their purpose.

Very respectfully, your obedient servant,

W. A. JONES, *Commissioner*.

The SECRETARY OF THE INTERIOR.

---

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,

*Washington, D.C., December 3, 1901.*

SIR: I have the honor to acknowledge the receipt by reference from you, of a report from the Commissioner of Indian Affairs, dated the 23d ultimo, and accompanying draft of a bill to ratify an agreement thereto attached, dated September 14, 1901, with the Indians of the Rosebud Reservation, S. Dak., providing for the cession of the unallotted portion of their lands in Gregory County, S. Dak. You direct this office to add another section to the draft of the bill, providing for the disposal of the lands, and to report in triplicate.

In reply I have to state that, in view of the provisions of the "Free homestead" act of May 17, 1900 (32 Stat., 179), and of the act of March 3, 1901 (31 Stat., 1093), providing for the disposal of lands recently opened to settlement and entry in Oklahoma, noting the reservations recommended by the Commissioner of Indian Affairs, and considering the price to be paid by the Government to the Indians for the lands acquired, I respectfully recommend that there be added to said bill the following section:

SEC. 3. That the lands ceded to the United States under said agreement, excepting such tracts as may

be reserved by the President, not exceeding three hundred and ninety-eight and sixty-seven one-hundredths acres in all, for subissue station, Indian day school, one Catholic Mission, and two Congregational missions, shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish war, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the Act of March first, nineteen hundred and one, shall not be abridged: *And provided further*, That the price of said lands shall be two dollars and fifty cents per acre, but settlers under the homestead law, who shall reside upon and cultivate the land entered in good faith for the period required by existing law, shall be entitled to a patent for the lands so entered upon the payment to the local land officers of the usual and customary fee and commissions, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry, except that homestead settlers who commute their entries under section twenty-three hundred and one Revised Statutes, shall pay for the land entered the price fixed herein.



Very respectfully,

BINGER HERMANN,  
*Commissioner.*

The SECRETARY OF THE INTERIOR.

A BILL to ratify an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation to carry the same into effect.

Whereas James McLaughlin, United States Indian inspector, did on the fourteenth day of September, anno Domini, Nineteen hundred and one, make and conclude an agreement with the male adult Indians of the Rosebud Reservation, in the State of South Dakota, which said agreement is in words and figures as follows:

This agreement made and entered into on the fourteenth day of September, nineteen hundred and one, by and between James McLaughlin, United States Indian inspector, on the part of the United States, and the Sioux tribe of Indians belonging on the Rosebud Reservation, in the State of South Dakota, witnesseth:

ARTICLE I. The said Indians belonging on the Rosebud Reservation, South Dakota, for the consideration hereinafter named, do hereby cede, surrender, grant, and convey to the United States all their claim, right, title, and interest in and to all that part of the Rosebud Indian Reservation now remaining unallotted, situated within the boundaries of Gregory County, South Dakota, described more particularly as follows: Commencing in the middle of the main channel of the Missouri River at the intersection of the south line of Brule County; thence down said middle of the main channel of said river to the

intersection of the ninety-ninth degree of west longitude from Greenwich; thence due south to the forty-third parallel of latitude; thence west along said parallel of latitude to its intersection with the tenth guide meridian; thence north along said guide meridian to its intersection with the township line between townships one hundred and one hundred and one, north; thence east along said township line to the point of beginning, the unallotted land hereby ceded, approximating four hundred and sixteen thousand (416,000) acres, lying and being within the boundaries of Gregory County, South Dakota, as said county is at present defined and organized.

ARTICLE II. In consideration of the land ceded, relinquished, and conveyed by Article I of this agreement the United States stipulates and agrees to expend for and pay to said Indians, in the manner hereinafter provided, the sum of one million and forty thousand (1,040,000) dollars.

ARTICLE III. It is agreed that of the amount to be expended for and paid to said Indians, as stipulated in Article II of this agreement, the sum of two hundred and fifty thousand (250,000) dollars shall be expended in the purchase of stock cattle, or native range or graded Texas two-year-old heifers and graded Durham or Hereford two-year-old bulls, for issue to said Indians, to be distributed as equally as possible among men, women, and children as soon as practicable after the ratification of this agreement, and that the sum of seven hundred and ninety thousand (790,000) dollars shall be paid to said Indians per capita in cash in five annual installments of one hundred and fifty-eight thousand (158,000) dollars each, the first of which cash payments shall be made within four months after the ratification of this agreement.

ARTICLE IV. It is further agreed that all persons of the Rosebud Indian Reservation, South Dakota, who have been allotted lands and who are now recognized as members of the tribe belonging on said reservation, including mixed-bloods, whether their white blood comes from the paternal or maternal side, and the children born to them, shall enjoy the undisturbed and peaceable possession of their allotted lands, and shall be entitled to all the rights and privileges of the tribe enjoyed by full-blood Indians upon the reservation; and that white men heretofore lawfully intermarried into the tribe and now living with their families upon said reservation shall have the right of residence thereon, not inconsistent with existing statutes.

ARTICLE V. It is understood that nothing in this agreement shall be construed to deprive the said Indians of the Rosebud Reservation, South Dakota, of any benefits to which they are entitled under existing treaties or agreements, not inconsistent with the provisions of this agreement.

ARTICLE VI. This agreement shall take effect and be in force when signed by U.S. Indian Inspector James McLaughlin and by three-fourths of the male adult Indians parties hereto, and when accepted and ratified by the Congress of the United States.

In witness whereof the said James McLaughlin, U.S. Indian inspector, on the part of the United States, and the male adult Indians belonging on the Rosebud Reservation, South Dakota, have hereunto set their hands and seals at Rosebud Indian Agency, South Dakota, this fourteenth day of September, A.D. nineteen hundred and one.

JAMES MCLAUGHLIN,  
U.S. Indian Inspector.

| No. | Name             | Mark. | Age |
|-----|------------------|-------|-----|
| 1   | He Dog .....     | x     | 65  |
| 2   | High Hawk .....  | x     | 50  |
| 3   | Black Bird ..... | x     | 52  |

(and 1,038 more Indian signatures.)

We, the undersigned, hereby certify that the foregoing agreement was fully explained by us in open council to the Indians of the Rosebud Agency, South Dakota; that it was fully understood by them before signing, and that the foregoing signatures, though names are similar in some cases, represent different individuals in each instance, as indicated by their respective ages.

WILLIAM BORDEAUX, *Official Interpreter.*

WM. F. SCHMIDT, *Special Interpreter.*

ROSEBUD AGENCY, S. DAK., October 4, 1901.

We, the undersigned, do hereby certify that we witnessed the signatures of James McLaughlin, United States Indian inspector, and the 1,031 Indians of the Rosebud Agency, S. Dak., to the foregoing agreement.

FRANK MULLEN, *Agency Clerk.*

C H. BENNETT, *Farmer, Cut Meat District.*

JOHN SULLIVAN, *Farmer, Glack Pipe District.*

FRANK ROBINSON, *Farmer, Little White River District.*

FRANK SYPAL, *Farmer, Butte Creek District.*

ISAAC BETTELYOUN, *Farmer, Big White River District.*

JAMES A. MCCORKLE, *Farmer, Ponca District.*

LOUIS BORDEAUX, *Ex-Farmer, Agency District.*

ROSEBUD AGENCY, S. DAK., October 4, 1901.

I certify that the total number of male adult Indians over 18 years of age belonging on the Rosebud Reservation, S. Dak., is 1,359, of whom 1,031 have signed the foregoing agreement, being 12 more than three-fourths of the male adult Indians of the Rosebud Reservation, S. Dak.

CHAS. E. MCCHESENEY,  
*United States Indian Agent.*

ROSEBUD AGENCY, S. DAK., *October 4, 1901.*

*Therefore, it be enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said agreement be, and the same hereby is, accepted, ratified, and confirmed.*

SEC. 2. That in accordance with the provisions of articles second and third of said agreement the sums of two hundred and fifty thousand dollars, for the purchase of stock cattle, and one hundred and fifty-eight thousand dollars, as the first of five annual installments to be paid said Indians in Cash, in all, four hundred and eight thousand dollars, be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

SEC. 3. That the land ceded to the United States under said agreement, excepting such tracts as may be reserved by the President, not exceeding three hundred and ninety-eight and sixty-seven one hundredths acres in all, for subissue station, Indian day school, one Catholic Mission, and two Congregational missions, shall be disposed of under the general provision of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars,

as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the act of March first, nineteen hundred and one, shall not be abridged: *And provided further*, That the price of said lands shall be two dollars and fifty cents per acre; but settlers under the homestead law, who shall reside upon and cultivate the land entered in good faith for the period required by existing law, shall be entitled to a patent for the lands so entered upon the payment to the local land officers of the usual and customary fee and commissions, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry, except that homestead settlers who commute their entries under section twenty-three hundred and one, Revised Statutes, shall pay for the land entered the price fixed herein.

---



[#8]

(Memorial of South Dakota legislature petitioning Congress to treat with Indians for cession of portion of Rosebud Reservation.)

[35 Cong. Rec. 377 (1901-1902)]

*Rosebud Reservation:*

\* \* \*

— Memorial of legislature of South Dakota for restoration to public domain of portion of 747.

[35 Cong. Rec. 747 (1902)]

Mr. GAMBLE. I present a joint resolution of the legislature of South Dakota, favoring the cession of that part of the Rosebud Indian Reservation within the Limits of Gregory County, S. Dak., to the Government, and opening the same to free homesteads. I ask that the Joint resolution be printed in the RECORD and referred to the Committee on Indian Affairs.

There being no objection, the joint resolution was referred to the Committee on Indian Affairs, and ordered to be printed in the RECORD, as follows:

STATE OF SOUTH DAKOTA,  
DEPARTMENT OF STATE.

UNITED STATES OF AMERICA,

*State of South Dakota, Secretary's Office:*

I, O. C. Berg, secretary of the State of South Dakota, do hereby certify that the attached instrument of writing is a true and correct copy of joint resolution No. 6, as

passed by the seventh legislative assembly of South Dakota, as the same appears of record in this office, and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota. Done at the city of Pierre, this 27th day of February, 1901.

[SEAL.]

O. C. BERG,

*Secretary of State.*

House joint resolution No. 6, a joint resolution and memorial requesting the Congress of the United States to treat with the Indians for the cession and opening of white settlement and free homestead entry all that porty of the Rosebud Indian Reservation lying within the boundaries of gregory County, S. Dak.

*Be it resolved by the house of representatives of the legislature of South Dakota, the Senate concurring:* Whereas there is in the organized portion of Gregory County, S. Dak., about 6 Congressional townships, said tract being too small in area, population, and assessed valuation to successfully maintain a county government without causing such government to become unduly burdensome; and

Whereas there is also within the boundaries of said Gregory County, S. Dak., about 23 Congressional townships of agricultural land which forms a part of the Rosebud Indian Reservation, and upon which are living a few Indians who have all taken their allotments in severalty; and

Whereas it is understood that the Indians are willing for a reasonable compensation to cede all that portion of the reservation herein mentioned to the Government; and

Whereas the ceding of said portion of the reservation to the Government would still leave a sufficiently large and suitable territory to meet all the requirements of an Indian reservation, while at the same time the ceding and

opening to white settlers of all that portion of said reservation above referred to would add to the productive farming land of the State, enlarge the area of Gregory County to a proper and desirable size, and greatly lessen the expense of maintaining the government of said county: Therefore, be it

*Resolved*, That we respectfully petition and memorialize the Congress of the United States to meet with the Indians at the earliest practicable date for the cession of all that portion of the Rosebud Indian Reservation lying within the boundaries of Gregory County, S. Dak., and that said tract be open to free homestead entry by white settlers; and be it further

*Resolved*, That we hereby request our Senators and representatives in Congress to use their best efforts to effect the object prayed for in this memorial; and the secretary of state is hereby instructed to forward copies of this memorial to our Senators and Representatives in Congress.

---

[#9]

(S. Doc. 324, 57th Cong. 1st Sess. (1902) petition of certain Lower Brulé Indians in South Dakota asking for legislation to permit them to secure allotments on the Rosebud Reservation.)

[35 Cong. Rec. 377 (1901-1902)]

*Rosebud Reservation*: bills to ratify agreement with Indians on (see bills S. 2992; H. R. 9057).

—amendment in Senate bill (S. 2992) to ratify agreement with Sioux Indians on 4855.

—letter of Secretary of Interior transmitting agreement with Indians on (S. DOC. 31) 206, 245,

—memorial legislature of South Dakota for restoration to public domain of portion of 747.

---

[35 Cong. Rec. 4706 (1902)]

Mr. GAMBLE. I present a petition, and accompanying papers, of certain Lower Brule Indians in South Dakota residing on the Rosebud Reservation, in that State, and claiming to belong to the last-named tribe, praying for the enactment of legislation to enable them to secure allotments upon that reservation. I move that the petition and accompanying papers be printed as document, and referred to the Committee on Indian Affairs.

---

[#9A]

(Petition of Certain Lower Brulé Indians residing upon the Rosebud Reservation asking for legislation to permit them to secure allotments upon said reservation.)

[S. Doc. 324, 57th Cong. 1st Sess. 1-7 (1902)]

PETITION AND PAPERS RELATIVE TO  
CERTAIN LOWER BRULÉ INDIANS IN  
SOUTH DAKOTA.

---

Mr. GAMBLE presented the following

PETITION, WITH THE ACCOMPANYING PAPERS, OF  
CERTAIN LOWER BRULÉ INDIANS IN SOUTH  
DAKOTA RESIDING UPON THE ROSEBUD RESER-  
VATION IN SAID STATE AND CLAIMING TO  
BELONG TO THE LAST-NAMED TRIBE, ASKING  
FOR LEGISLATION TO PERMIT THEM TO SE-  
CURE ALLOTMENTS UPON SAID RESERVATION.

---

APRIL 26, 1902.—Referred to the Committee on Indian  
Affairs and ordered to be printed.

---

PETITION.

*To the Senate and the House of Representatives of the  
United States of America in Congress Assembled:*

We, the undersigned, recognized as members of the  
Lower Brulé tribe of Indians, and residing with that

portion of said tribe now living and belonging on the  
Rosebud Reservation, in the State of South Dakota,  
respectfully petition your honorable body that such  
legislation be enacted as will secure to us the lands which  
we have selected as our allotments on the Rosebud  
Reservation before the same are thrown open to settle-  
ment, as will be done after the ratification of the  
agreement with the Rosebud Sioux Indians, for cession to  
the United States of the portion of their reservation  
unallotted, and lying within what is known as Gregory  
County, S. Dak.

We represent, and show evidence herewith submitted,  
that we, except John Sully, a white man, are of Sioux  
Indian blood; that we all have been living with the Lower  
Brulé Sioux Indians, and recognized by them as belonging  
to said tribe and entitled to all of the rights and benefits  
thereof as other members of said tribe, and that we have  
heretofore had and enjoyed such rights and benefits; that  
because it happened that when the great Sioux Reserva-  
tion was divided up into separate reservations under the  
agreement of 1898 we were supporting ourselves and  
were not at that specific time receiving rations from the  
Government at the Rosebud Agency, though residing on  
the portion of the reservation set apart for the Indians so  
receiving rations at that agency, we have been denied the  
right to allotments of lands selected by us.

We further represent that in the proceedings of the  
council with the Lower Brulé Indians preliminary to the  
negotiation of the agreement for the removal of a portion  
of the Lower Brulé tribe to the Rosebud Reservation it  
was distinctly stated by the chiefs to Inspector McLaugh-  
lin, who conducted the negotiations, that we were  
recognized as members of said Lower Brulé tribe of  
Indians, and that it was the desire of the said tribe that  
your petitioners should be enrolled as such members, and



be entitled to all rights and privileges of said tribe; that this action was taken at that time, not as the initiative proceedings for our recognition as members of said tribe, but because there had been recently some action by the Department calling in question our right to allotments of lands that had been made to us, notwithstanding the fact that we had long been recognized as members of the said tribe of Lower Brulé Indians, and had received other benefits inuring to such members under the treaties with the Sioux Nation of Indians.

We further represent that to deprive us of the lands we have selected and improved as our homes will work a very great hardship to us, and leave us without homes, lands, etc.

We urgently request that, in the legislation for the ratification of the agreement of the Rosebud Sioux Indians for cession to the United States of the unallotted lands of the reservation in what is known as Gregory County, S. Dak., now pending before Congress, and set out in Senate Doc. No. 31, Fifty-seventh Congress, first session, such provision be made will secure to us and our children and grandchildren the lands we have selected for our allotments, and which we have improved and are improving as our homes.

And we will ever pray.

JOHN SULLY.

MARY SULLY,

(For herself and for her minor children, Millie Sully, John Sully, Frank Sully, Georgia Sully, and Sammy Sully and Cloudy Sully.)

EVA SULLY.

WILLIAM KINKADE.

MARY GAUGHEN,

(For herself and her minor children, Emmitt Gaughen, Ollie Gaughen, Nellie Gaughen, Julia Gaughen, Amy Gaughen.)

LOUISE WAUGH,

(For herself and her minor child, John Waugh.)

ESTELLA BLACKBIRD,

(For herself and her minor children, Susie Blackbird, Lucy Blackbird, Annie Blackbird, and George Blackbird.)

ROSEBUD RESERVATION, S. DAK., *April 18, 1902.*

---

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,

*Washington April 4, 1902.*

SIR: This office is in receipt of your communication of the 29th ultimo, with which you inclose the formal application, dated March 22, 1902, of Mrs Mary Sully, for allotments of land on the Rosebud Indian Reservation, S. Dak., for herself, husband, children, and grandchildren, as follows:

Her husband, John Sully, a white man.

Her children: Mary Gaughen (nee Kinkade), 33 years old; Louise Waugh (nee Sully), 20 years old; Estelle Kinkade, 25 years old; Willia Kinkade, 27 years old; Eva Sully, 19 years old; Milly Sully, 16 years old; John Sully, 15 years old; Frank Sully, age not given; Georgia Sully, 12 years old; Sammy Sully, 10 years old, and Cloudy Sully, 6 years old.

Her grandchildren: Emmitt Gaughe, 10 years old; Ollie Gaughen, 8 years old; Nellie Gaughen, 6 years old; Julia Gaughen, 4 years old; Amy Gaughen, 2 years old; John Waugh, 5 years old; Susie Blackbird, 10 years old; Lucy Blackbird, 8 years old; Annie Blackbird, 6 years old, and George Blackbird, 4 years old, children of Estelle Kinkade.

Mrs. Sully states in her application that she is a full-blood Sioux Indian, 46 years of age, and sets out at some length the history of her claim.

In transmitting her application you state concerning the same that she is the wife of a white man, John Sully; that her former husband was named Kinkade; that she swears she was born and reared on the Great Sioux Reservation on the west side of the Missouri River where she has always lived; that she was for a while on the Lower Brulé Reservation, where she and members of her family received benefits as Indians, were allotted lands, etc.; that they elected to leave Lower Brulé and come to the Rosebud Reservation with the Lower Brulés to take allotments, but for reasons unknown to her allotments at Rosebud have been withheld from her and members of her family; that there was some disturbance of their status at the time Inspector McLaughlin negotiated the agreement with the Lower Brulé Indians to remove to the Rosebud Reservation, at which time the chiefs and leading men presented the matter to the inspector and urged that the whole Sully family, "all of whom they recognize as belonging to their tribe or band, should be enroled as members thereof;" that Mr. McLaughlin promised the chiefs that he would present the matter to the Department with his recommendation thereon, etc.; and that Mrs. Sully urges that her claim in this matter be given prompt attention, as she fears that she and her family will be deprived of the lands that they have selected and improved as their allotments.

In reply, you are informed that under date of July 9, 1895, A. B. Lucas, esq., of Castilia, S. Dak., addressed a communication to this office which he called attention to the matter of allotments of lands on the Rosebud Reservation, and presented claims of Mary Drappo or Drapeau (mother of the present applicant) and her

daughters and granddaughters for allotments on the said reservation. September 23, 1895, the case was fully reported to the Secretary of the Interior, who under date of September 28, 1895, passed upon the question as to whether or not the said persons were entitled to allotments or enrollment as Sioux Indians, deciding as follows:

From the evidence presented by Agent Wright, of the Rosebud Agency, in his letter of the 10th instant, it appears that the father of the aforesaid Mary Drappo was a Yankton Indian, and that her mother was a member of the Crow Creek tribe, both of whom were enrolled at the Yankton Agency; that while living at that agency with her parents she married her present husband, a white man, and moved to Cedar Island, on the Missouri River; that about 1868, when the Rosebud Agency was located at Whetston Creek (then the Whetstone Agency), near the Missouri River, she applied to the agent and received a ration ticket for herself and six children, where she drew rations for about two years; that when the Whetstone Agency was moved from the above-named location (which removal was effected during the year 1875, in the State of Nebraska, where the agency was known as the Spotted Tail Agency, whence it was again moved to Dakota in 1878, to its present location, where it has since been known as the Rosebud Agency). She remained at Cedar Island and has drawn no rations since at any place; that after the agency was moved her husband took a claim on the east side of the Missouri River and moved there with his family, and that they moved back to the west side of the river and on to the Rosebud Reservation about six years ago, where she has since lived; that she then applied to the present agent at Rosebud for a ration ticket and was informed that he had no authority to give it to her.



From this statement of facts it appears that Mrs. Drappo is of Yankton Sioux lineage, and that for a short period subsequent to her marriage she was allied with the Indians of the Whetstone (now Rosebud) Agency, although she never resided upon any of the reservations of the Great Sioux Nation until about six years ago, when she moved to, and has since remained upon, the Rosebud Reservation.

Section 2 of the act of March 2, 1889, providing for the division of a portion of the reservation of the Sioux Nation of Indians into separate reservations, provides—

“That the following tract of land, being a part of the land, being a part of the said Great Reservation of the Sioux Nation, in the Territory of Dakota, is hereby set apart for a permanent reservation for the Indians receiving rations and annuities at the Rosebud Agency, in said Territory of Dakota. \* \* \* (25 Stats, 888.)

At the date of the aforesaid act, Mrs. Drappo was not receiving rations at the Rosebud Agency; nor had she received any there since it ceased to be the Whetstone Agency, many years before, and then only for a limited period, up to which time, however, and until about six years ago, she had never resided upon the lands of the Rosebud Reservation. Nor has it been established that she was residing there at the date of the act named.

It would seem, therefore, that whatever rights attach to Mrs. Drappo as an Indian attach to her as a member of the Yankton Sioux tribe, and that she has no rights as a member of any of the tribes or bands of the Great Sioux Nation.

These facts apply with equal force to the children of Mrs. Drappo, named in your letter.

The agent of the Rosebud Agency and also the said Mr. Lucas were fully informed of this decision, the latter being furnished with a copy of the same.

June 19, 1899, the Indian agent of the Yankton Agency submitted to this office the application of Mrs. Millie Drappo McGhee ( a sister of the present applicant) for enrollment as a half-breed Yankton Sioux at the agency under his charge. Her application was on July 13, 1899, submitted to the Department with the statement that from the facts in the case it appears that Mrs. Millie McGhee was one-quarter Yankton Sioux; that her mother, Mary Drappo, was one-half Yankton and one-half Crow Creek, and that it would seem that the said Mrs. McGhee would be entitled to enrollment with the Indians of the Yankton Agency, but that her children would not. In reply the Department, in letter of July 18, 1899, stated that neither Mrs. McGhee nor her children were entitled to the rights applied for. This letter reads as follows:

Mrs. McGhee is a quarter-blood Yankton Sioux, being the daughter of a white man and a half-blood Yankton woman, whose father was a member of that tribe, the mother being a Crow Creek Indian. Mrs. McGhee is the wife of a white man, and has never had a legal residence upon any Indian reservation, although it appears that for a short time during her infancy she may have resided with her parents at or near the old Whetstone Agency on the Missouri River, and possibly later with them also on the Rosebud Reservation, but she has never been recognized as a legal member of any tribe of Indians.

Mary Drappo, or Drapeau, Mrs. McGhee's mother, made application in 1895 for enrollment with the Rosebud Sioux, including also two sons and two daughters and one granddaughter—Mrs. McGhee being one of the daughters whose names were then mentioned.

It was then decided (September 28, 1895) that Mrs. Drappo had no rights as a member of any of



the tribes or bands of the great Sioux Nation; that whatever her rights as an Indian attached as a member of the Yankton Sioux tribe, and that these facts applied with equal force to her children.

Section 2 of "An act in relation to marriage between white men and Indian women," approved August 9, 1888 (25 Stats., 392), provides:

"That every Indian woman, member of any such tribe of Indians, who may here-after be married to any citizen of the United States is hereby declared to become by such marriage a citizen of the United States, with all the rights, privileges, and immunities of any such citizen, being a married woman: *Provided*, That nothing in this act contained shall impair or in any way affect the right or title of such married women to any tribal property or interest therein."

Both Mrs. Drappo and Mrs. McGhee are the wives of white men. Mrs. Drappo retains her status as an Indian, having married prior to the date of the above-named act, and is entitled to recognition and enrollment as a member of the Yankton Sioux tribe; but Mrs. McGhee, whom it is assumed married subsequent to that date, thereby became a citizen of the United States. Neither of them is a recognized member of any tribe of Indians.

Mrs. McGhee being the daughter of a white man and an Indian woman who is not a recognized member of any tribe acquires no rights under the provisions of the act of June 7, 1897 (30 stats., 90), which declares:

"That all children born of a marriage heretofore solemnized between a white man and an Indian woman by blood and not by adoption, where said Indian woman is at this time or was at the time of her death recognized by the tribe, shall have the same rights and privileges to the property of the tribe to which the mother belongs or belonged at

the time of her death, by blood, as any other member of the tribe, and no prior act of Congress shall be construed as to debar such child of such right."

Not being herself a recognized member of the tribe the children of Mrs. McGhee are also debarred of tribal rights.

It does not appear that Mrs. Drappo has applied for enrollment with the Yankton Sioux, nor is it known to the Department that she desires to be enrolled with that tribe. Therefore, notwithstanding the statement herein as to her rights, it may not be inferred that authority to enroll her name is granted.

April 5, 1900, the Secretary referred to this office a communication from Hon. R. J. Gamble, M. C., inclosing a letter from Rev. John Eastman "in regard to the status of Mrs. Drappo, Mrs. Sully, and others, who claim enrollment with the Rosebud Indians," and stated that it was claimed by the said Rev. Mr. Eastman that these claimants "had also received \$50 per capita payment to all Indians of the age over 18 and who received allotment \* \* \* according to the seventeenth section of the treaty of 1889." The Department directed that the records of this office be examined to the end that it might be informed whether or not this statement as to the applicant was correct, and if so at what agency they received their allotments and per capita payments. In reply this office stated, under date of May 15, 1900, as follows:

In reply I have respectfully to report that upon an examination of the records of this office it was found that an allotment was made, under date of January 28, 1895, at the Crow Creek Agency to a "Mrs. Sully," aged 72, who received a per capita payment of \$50. At the same time it was also found

a Mrs. Sully, aged 44, had received an allotment of land at the Lower Brulé Agency and under date of June 11, 1896, received a per capita payment of \$50. The Indian agents of the respective agencies were therefore requested to report at once whether or not the Mrs. Sully found to have received an allotment and per capita payment of \$50 at their agencies was the woman to which Rev. Mr. Eastman referred.

I am now in receipt of a report, dated the 7th instant, from the United States Indian agent of the Crow Creek Agency that the Mrs. Sully who received an allotment of land on the Crow Creek Reservation is not in any way related to the Drappo family. Under date of April 19 last Agent Ash reported as follows:

"In reply I have to advise you that Mrs. Sully, wife of John Sully, is the daughter of Mary Drappo or Drapeau, whom I have known for the past thirty years, and her children received allotments Nos. 546, 547, 548, 549, 550, 551, 552, 553, and Joseph La Tuna, son-in-law of Mrs. Sully, and Mrs. La Tuna, his wife (daughter of Mrs. Sully), received allotment No. 606, in 1895, on the Lower Brulé Reserve.

"That the records of this office show Mrs. Sully received the \$50 payment made June 11, 1896, No. 228, also Mrs. Sully's daughter, Mrs. Joseph La Tuna, No. 203 on same pay roll."

It would therefore appear that Rev. Mr. Eastman's statement is in part correct, as the only members of this family who received allotments and per capita payments were Mrs. Sully and her children. It further appears that they received such allotments in 1895, and in the same year applied for allotments of land and enrollment at the Rosebud Agency, but were denied such rights in Department letter dated September 28, 1895, in which decision it was further stated that neither Mrs. Drappo nor any

of her children were entitled to rights as Indians with any of the tribes or bands of the Sioux Nation. Therefore, it would seem that Mrs. Sully and her children received their allotments upon the Lower Brulé Reservation before this decision was rendered. These allotments were reported upon the schedule by the allotting agent at the time, but it was afterwards decided to reallocate the lands upon this reservation, and such reallocation has been made and the schedule received in this office. It does not contain the names of Mrs. Sully nor any of her children.

June 4, 1900, the said Rev. Mr. Eastman again wrote concerning this case and stated that in his opinion the Department had committed an error of law in deciding the same as well as an error of fact, etc., and requested that the claim of Mrs. Sully and her children and the others involved in the decision be resubmitted to the Department for its consideration of certain questions which he propounded asking in brief as to where the burden of proof lay in the premises and for an interpretation of the provisions of law quoted in Department letter of September 28, 1895. This letter of inquiry from Mr. Eastman, which was in fact an appeal from the previous decisions of the Department in the matter, was submitted to the Department by this office in a somewhat lengthy report, dated July 5, 1900, the conclusion of which reads as follows:

In conclusion I have to say that I fail to find such equitable or legal considerations in the case as in my opinion called for the reversal of action previously taken in the premises, and it is therefore recommended that the motion for review and reversal of the Department's previous action be denied and that such previous decision be adhered to as final.



The Department, under date of July 13, 1900, advised Rev. Mr. Eastman in this case "that the recommendation of the Commissioner of Indian Affairs is approved, and that the previous decision of the Department in the case of Mrs. Drappo and others mentioned by you (him) is adhered to as final."

From the above-quoted decisions of the Department it will be seen that neither Mrs. Sully nor any of her children or grandchildren have through her any rights to benefits with the Indians of the Rosebud Agency.

In the case of Mrs. Sully's husband, a white man, it is not shown that he was ever adopted by the Rosebud Indians as a member of their tribe and his adoption approved by this Department; and unless he could satisfactorily establish his claims by blood or adoption to rights with the Rosebud Sioux it is not seen how he could legally be given an allotment on the Rosebud Reservation.

Very respectfully,

W. A. JONES,  
*Commissioner.*

R. V. BELT, Esq.,

*Attorney at Law, Washington, D.C.*

---

*Resolved by the Sioux Indians of the Rosebud Indian Reservation, in the State of South Dakota, in council assembled (according to the custom of said Indians), That John Sully and his wife, Mary Sully, are, and have heretofore been, recognized as members of the Lower Brulé tribe of Sioux Indians, and as such are, with all of their children and grandchildren, entitled to allotments of land and all other rights and benefits with the Lower Brulé Sioux Indians on the Rosebud Reservation; that the said Mary Sully is a woman of Sioux Indian blood; that*

prior to the agreement negotiated by Inspector McLaughlin with the Lower Brulé Sioux Indians for their removal to the Rosebud Reservation the said Mary Sully and members of her family had been allotted lands on the Lower Brulé Reservation, and had received benefits as members of said Lower Brulé tribe of Indians under the Sioux Indian treaties; and that they removed to the Lower Brulé Reservation from the Rosebud Reservation, and again from the Lower Brulé Reservation to the Rosebud Reservation, and have taken allotments of land on which they have built houses and made other improvements in making homes for themselves, but said allotments of land have not been allowed to them by the allotting agents, and unless they are secured in said allotments before the ratification of the pending agreement for opening to settlement the lands within what is known as Gregory County, S. Dak., they will be deprived of their homes and allotments and will be without lands.

It is therefore desired by the Indians of the Rosebud Reservation that such action be taken by the Department and by the Congress of the United States as shall be found to be necessary to secure to the said John Sully and Mary Sully and the children and grandchildren of said Mary Sully, all being of Sioux Indian blood, a good and sure title to the lands they have selected for allotments to the full extent they are entitled thereto as members of the said Lower Brulé tribe of Indians now residing upon the Rosebud Reservation.

That the names, ages, and sex of the persons covered by these resolutions and recognized to be entitled to the rights herein specified are—

John Sully, white man, male, husband of Mary Sully.

Mary Sully, Sioux Indian, female.

Mary Gaughen (née Kinkade), female, daughter of Mary Sully, age 33 years.



Louise Waugh (née Sully), female, daughter of Mary Sully, age 20 years.  
 Estelle Kinkade (now Blackbird), female, daughter of Mary Sully, age 25 years.  
 Willie Kinkade, male, son of Mary Sully, age 27 years.  
 Eva Sully, female, daughter of Mary Sully, age 19 years.  
 Millie Sully, female, daughter of Mary Sully, age 16 years.  
 John Sully, male, son of Mary Sully, age 15 years.  
 Frank Sully, male, son of Mary Sully.  
 Georgia Sully, female, daughter of Mary Sully, age 12 years.  
 Sammy Sully, male, son of Mary Sully, age 10 years.  
 Cloudy Sully, male, son of Mary Sully, age 6 years.  
 Emmitt Gaughen, female, granddaughter of Mary Sully, age 10 years.  
 Ollie Gaughen, female, granddaughter of Mary Sully, age 8 years.  
 Nellie Gaughen, female, granddaughter of Mary Sully, age 6 years.  
 Julia Gaughen, female, granddaughter of Mary Sully, age 4 years.  
 Amy Gaughen, female, granddaughter of Mary Sully, age 2 years.  
 John Waugh, male, grandson of Mary Sully, age 5 years.  
 Susie Blackbird, female, granddaughter of Mary Sully, age 10 years.  
 Lucy Blackbird, female, granddaughter of Mary Sully, age 8 years.  
 Annie Blackbird, female, granddaughter of Mary Sully, age 6 years.  
 George Blackbird, male, grandson of Mary Sully, age 4 years.

The persons named Mary Gaughen, Estelle Kinkade, and Willie Kinkade are the children of Mary Sully by a former husband whose name was Kinkade.

Done in council, on the Rosebud Reservation, S. Dak., this 18th day of April, 1902.

FOOL (his x mark) WHALK,

*President of Council.*

THOMAS (his x mark) RED LEAF,

*Secretary of Council.*

I certify that I interpreted and explained the foregoing to the council this 18th day of April, 1902.

LEON DRAPEAR,

*Interpreter of Council.*

---

[#10]

(Legislative history of H.R. 17467, a bill to ratify and amend the 1901 agreement with the Sioux Indians of the Rosebud Reservation.)

[36 Cong. Rec. 148 (1902-1903)]

*Rosebud Reservation:* bills to ratify and amend agreement with Sioux Indians on (see bills S. 7390; H.R. 17467)

—memorial of legislature of South Dakota favoring ratification of agreement with Indians on 1559, 1626.

[36 Cong. Rec. 141 (1902-1903)]

H.R. 17467—

To ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation and provision to carry the same into effect.

Mr. Burke of South Dakota; Committee on Indian Affairs 2409.—Reported back with amendment (H.R. REPORT 3839) 2473.

[36 Cong. Rec. 2409 (1903)]

By Mr. BURKE of South Dakota: A bill (H.R. 17467) to ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation and provision to carry the same into effect—to the Committee on Indian Affairs.

[36 Cong. Rec. 2473 (1903)]

# REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

\* \* \*

Mr. BURKE of South Dakota, from the Committee on Indian Affairs, to which was referred the bill of the House (H.R. 17467) to ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation and provision to carry the same into effect, reported the same with amendments, accompanied by a report (No. 3839); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

[#10A]

(House report to accompany H.R. 17467 concerning the 1901 agreement with the Rosebud Sioux Indians.)

[H.R. Rep. No. 3839, 57th Cong., 2d Sess. 1-5 (1903)]

# AGREEMENT WITH INDIANS OF ROSEBUD RESERVATION, S. DAK.

---

February 21, 1903.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

---

Mr. BURKE, of South Dakota, from the Committee on Indian Affairs, submitted the following

## R E P O R T

[To accompany H.R. 17467.]

The Committee on Indian Affairs, to whom was referred the bill (H.R. 17467) ratifying and amending an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making an appropriation and provision to carry the same into effect, having had the same under consideration, submit the following report and recommend that the bill do pass with the following amendments:

In line 18, page 9, after the word "act," insert "and amended agreement," and add a new section as section 7.

The purpose of this bill is to ratify and amend an agreement made with the Rosebud Indians, in South Dakota, by Inspector James McLaughlin, dated September 14, 1901, providing for the cession to the United States of the unallotted portion of their lands in Gregory County, S. Dak., and opening the same to settlement and entry under the homestead and town-site laws.

The area of the reservation embraced in Gregory County proposed to be ceded under this agreement is 416,141.24 acres. There are 452 Indians holding allotments in the county, aggregating 104,999 acres.

The agreement made with the Indians provided that the United States should pay for the land at the rate of \$2.50 per acre, \$250,000 of the amount to be expended in the purchase of stock cattle for the benefit of the Indians and the balance to be paid per capita in cash in five annual installments.

A bill for the ratification of this treaty and opening the lands to settlement and entry was reported by this committee favorably. A similar bill passed the Senate, was referred to this committee, and was also unanimously reported, and both bills have been upon the Calendar of the House for passage for some time. The present bill proposes to adopt a new policy in acquiring lands from the Indians, and it provides that the lands shall be disposed of to settlers under the homestead and town-site laws, and to be paid for by the settlers, and the money to be paid to the Indians only as it is received in payment for the land from the settler. It provides that \$250,000 shall be expended for the purchase of stock cattle, as the original treaty provides, and not more than \$500,000 shall be expended for or paid to the Indians within two years, and not more than \$150,000 shall be expended per year thereafter until the expiration of the five years.



This provision is for the protection of the Indians, and to prevent them from receiving the full proceeds from the sale of these lands before five years. The bill also provides that sections 16 and 36, or the equivalent of two sections in every township, shall be ceded to the State of South Dakota for school purposes and paid for by the United States at \$2.50 per acre, and an appropriation of \$90,000 is made for this purpose. This provision is in conformity with the guarantee given to the State of South Dakota by Congress in the enabling act, which provided that any reservations open to settlement subsequent to the admission of the State into the Union, that sections 16 and 36 would be reserved and ceded to the State for school purposes.

The provision of the bill for payment of the lands by settlers, in installments, 50 cents per acre when entry is made, and the balance in four payments of 50 cents per acre, is deemed a wise one, as it will make it easy upon the settler to pay for his land, and will also provide a fund to pay the Indians an annual per capita cash payment. Section 5 of the bill provides that it shall be of no effect until it is assented to and accepted by three-fourths of the male adult Indians over 18 years of age, which provision is in accordance with the twelfth article of the treaty between the United States and the Sioux Indians, concluded April 29, 1868, and while it is probably true that it is not necessary to secure the consent of the Indians in enacting legislation affecting them, in view of the treaty stipulation aforesaid, the committee have concluded that it would be better to require the treaty as amended to be accepted by the Indians before it becomes effective.

The lands are agricultural and desirable, and will probably all be filed upon and paid for, but for fear there might be some tracts undesirable for homesteads a

provision is made in the bill by which, under rules and regulations to be prescribed by the Secretary of the interior, the undisposed-of portions may be sold at public auction to the highest bidder, in tracts not exceeding 160 acres to one person, who must be a citizen of the United States.

The committee are of the opinion that the bill is in every way fair to the Indians and also to the United States, and that the terms by which the lands may be acquired by settlers are not unreasonable, and therefore urge the passage of the bill. The agreement, as originally made with the Indians, which is a part of the bill, was approved by the Commissioner of Indian Affairs and the Secretary of the Interior, as will be shown by communications which are herewith submitted.

---

DEPARTMENT OF THE INTERIOR, OFFICE OF  
INDIAN AFFAIRS,

*Washington, November 23, 1901.*

SIR: The office has the honor to acknowledge the receipt of a letter dated October 11, 1901, from the Acting Secretary of the Interior, transmitting a report by United States Indian Inspector James McLaughlin, dated October 5, 1901, with which he inclosed an agreement dated September 14, 1901, with the Indians of the Rosebud Reservation, in South Dakota providing for the cession of the unallotted portion of their lands embraced in Gregory County. In his said letter the Acting Secretary directed that if the office, after consideration, finds no objection to the approval of said agreement, proper report be prepared for presentation to Congress with a view to the ratification of the agreement.

The question of securing the cession of the lands referred to was first suggested during the first session of the Fifty-sixth Congress when bills providing for negotiations to that end were introduced. Aside from the fact that the lands in question, which are not being used by the Indians, are very desirable for agricultural purposes, the main reason put forward for having the lands opened up was that at the present time the larger portion of Gregory County was embraced in the Indian reserve, so that it was difficult for the remainder of the county to maintain the county organization.

The office has also had a great deal of correspondence with the people at large during the past two years in reference to the opening of said lands.

No congressional authority for conducting negotiations, however, was granted until, by a provision contained in the last Indian appropriation act, approved March 3, 1901, the Secretary of the Interior was authorized, in his discretion, to negotiate through a United States Indian inspector with any Indians for the cession of portions of their respective reserves. Accordingly, under date of March 19, 1901, a draft of instructions was prepared by this office for the guidance of the United States Indian inspector conducting negotiations with the Rosebud Indians for the lands referred to. Said instructions were approved by the Department on March 21, 1901, and Inspector McLaughlin detailed for the duty of conducting negotiations.

\* \* \* \* \*

Article 1 of the agreement concluded by the inspector with said Indians provides that in consideration of the sum thereafter named the Indians cede to the United States all that portion of their reservation not allotted,

situated and lying east of the tenth guide meridian. Said guide meridian forms the township line between townships 73 and 74 west, and is also the west boundary line of Gregory County, so that the lands ceded embrace all of the Indian reservation not allotted situated in said county.

Article 2 stipulates that in consideration of the cession agreed to by article 1 of the agreement the United States will expend for and pay to the Rosebud Indians the sum of \$1,040,000.

Article 3 provides that \$250,000 shall be expended in the purchase of stock cattle of native range or graded Texas 2-year-old heifers and graded Durham or Hereford 2-year-old bulls for issue to said Indians, the same to be distributed as equally as possible among the men, women, and children as soon as practicable after ratification of the agreement.

This article further provides that the balance of the consideration, \$790,000, shall be paid to the Indians per capita in cash in five annual installment of \$158,000 each, the first of such cash payments to be made within four months after the ratification of the agreement.

Article 4 provides that all persons of the reservation who have received allotments and are now recognized as members of the tribe, belonging on the reservation, including mixed-bloods, whether their white blood comes from the paternal or maternal side, and the children born to them, shall enjoy the undisturbed and peaceable possession of their allotted lands, and shall be entitled to all the rights and privileges enjoyed by full-blood Indians. This article further provides that white men theretofore lawfully intermarried into the tribe and now living with their families upon the reserve shall have the right of residence thereon not inconsistent with existing statutes.



Article 5 provides that nothing in the agreement shall be construed to deprive the Indians of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement.

Article 6 stipulates that the agreement shall not take effect and be in force until the same is accepted and ratified by the Congress of the United States.

The agreement is dated September 14, 1901, and contains the signatures of James McLaughlin, United States Indian inspector, and of 1,031 male adult Indians of the reservation. A certificate dated October 4, 1901, by William Bordeaux, official interpreter, and William F. Schmidt, special interpreter, is appended to the agreement, to the effect that the provisions thereof were fully explained by them to the Indians in the open council, that it was fully understood by them before signing, and that the signatures, though the names are similar in some cases, represent different individuals in each instance, as indicated by their respective ages.

\* \* \* \* \*

A certificate dated October 4, by United States Indian Agent Charles E. McChesney, is also attached, stating that the total number of male adult Indians over 18 years of age belonging on the reservation is 1,359, of whom 1,031 have signed the agreement, being 12 more than three fourths of the male adult population of the reservation.

Having been unable to get the Indians to fix a price upon the lands in his first councils with them, the inspector states that in the council held September 12 he made them a flat offer of \$2.50 per acre for the tract, stating that this was double the minimum price of Government lands and full value for their unallotted lands in Gregory County; that while he regarded the land worth that amount, it was all that it was worth, and that his offer would not be increased; whereupon a number of

the older men withdrew from the council; that, however, he succeeded in having a majority of those assembled remain until another council had been arranged for September 14, on which latter date an agreement was reached. \* \* \*

The inspector states that the land in Gregory County is without doubt the best and most desirable portion of the Rosebud Reservation, and that although the allotments embrace much of the choicest land, yet a great deal of good land remains unallotted. The whole tract, he says, is excellent grazing land and the greater portion is also good agricultural land, upon which excellent crops can be raised when there is sufficient rainfall during the growing season. He says he regards the compensation stipulated in the agreement as very reasonable and at the same time a fair and just price for the lands.

According to the inspector's report, the area of the portion of the Rosebud Reservation embraced in Gregory County is 521,050.24 acres, of which 104,909 acres have been allotted to 452 Indians, leaving 416,141.24 acres unallotted, which was stated in the agreement as approximating 416,000 acres, for a definite lump sum, at \$2.50 per acre, of \$1,040,000.

The inspector adds that the cession covers 160 acres reserved for the Ponca Creek issue station, 40 acres for the Ponca Creek Day School, 78.76 acres for the Catholic Mission, and two tracts of 80 and 40 acres, respectively, for the Congregational Mission—a total of 398.67 acres thus being reserved.

Respecting the desposition to be made of the proceeds arising from the cession, the inspector states that the stock cattle provided for by article 3 will be of great benefit to the Indians, who have such magnificent stock ranges upon their reservation, and that the cash payment for five years will aid the Indians materially in



providing for their family needs during that time, after which the matured cattle, the increase from the stock issued to them, will be marketable and will with proper care give them and annual revenue thereafter.

The inspector states that he was very desirous of having the agreement provide for the construction of dams and reservoirs on arid portions of the reservation, and also for the purchase of lumber for the construction of houses, and that both he and Agent McChesney endeavored by sound reasoning to have the Indians accept such provisions, but to no purpose, they maintaining that those in need of dams could construct the same themselves, and those requiring lumber could purchase it with the money they received as their per capita payments.

They insisted that if lumber were provided for issue to the Indians and equal per capita distribution of it could not be made. The Indians insisted for a long time upon having the entire \$790,000 paid to them in cash in one payment; but the inspector says he finally succeeded in getting their consent to its payment in five annual installments, which he says will approximate about \$30 per capita annually for five years.

\* \* \* \* \*

In conclusion, the inspector states that he regards the compensation and manner of payment provided in the agreement as just and fair, both to the Indians and to the United States; that the manner of payment was the best, both for the Indians and for the Government, that the Indians would accept; that the stock cattle and the five annual cash payments will be of great benefit to the Indians in giving them a good start toward their self-

support. He heartily recommends the approval and ratification of the agreement. \* \* \*

The compensation agreed upon for the land ceded, amounting to about \$2.50 per acre, is, in the judgment of this office and from the best information obtainable, fair and reasonable. Although it might have been better to have had the consent of the Indians to the disposition of a larger portion of the proceeds, under the direction of the Secretary of the Interior, for their benefit, it will be seen from the report of the inspector and the transcript of council proceedings that the Indians would not consent to the distribution of any portion of the \$790,000 otherwise than in cash.

The office has accordingly prepared a draft of a bill embodying the agreement providing for the acceptance and ratification of the agreement. Section 2 of said draft provides for the appropriation of \$408,000, the amount necessary to carry the provisions of articles 2 and 3 of the agreement into effect. \* \* \*

W. A. JONES, *Commissioner.*

THE SECRETARY OF THE INTERIOR.

---

DEPARTMENT OF THE INTERIOR,

*Washington, December 6, 1901.*

SIR: I have the honor to transmit herewith a copy of a report of the Commissioner of Indian Affairs, dated the 23d ultimo, and accompanying copy of an agreement, dated September 14, 1901, between United States Indian Inspector James McLaughlin and the Indians of the Rosebud Reservation, S. Dak., providing for the cession to the United States of the unallotted portion of their lands embraced in Gregory County, S. Dak., with the draft of a bill prepared by the Commissioner of Indian

Affairs and the Commissioner of the General Land Office, ratifying the agreement, and accompanying papers.

This agreement has been carefully considered by the Commissioner of Indian Affairs, and as it seems fair and reasonable, and the terms the best that could be obtained, I have the honor to recommend that it receive favorable action by the Congress.

Very respectfully, E. A. HITCHCOCK,  
*Secretary.*

The PRESIDENT PRO TEMPORE UNITED STATES  
SENATE.

---

[#11]

(Legislative History of S. 7390—the Senate companion bill to H.R. 17467, a bill to ratify and amend the 1901 agreement with the Sioux Indians of the Rosebud Reservations.)

[36 Cong. Rec. 148 (1902-1903)]

*Rosebud Reservation:* bills to ratify and amend agreement with Sioux Indians on (see bills S. 7390; H.R. 17467).

—memorial of legislature of South Dakota favoring ratification of agreement with Indians on 1559, 1626.

---

[36 Cong. Rec. 51 (1902-1903)]

S. 7390—

To ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation and provision to carry the same into effect.

Mr. Gamble; Committee on Indian Affairs 2434.—Reported back with amendments (S. REPORT 3271) 2498.—Debated and passed Senate 2502, 2747.—Referred to House Committee on Indian Affairs 3074.

---

[36 Cong. Rec. 2434 (1903)]

Mr. GAMBLE introduced a bill (S. 7390) to ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation and provision to carry the same into effect; which was read twice by its title, and referred to the Committee on Indian Affairs.

---

[36 Cong. Rec. 2498 (1903)]

Mr. GAMBLE, from the Committee on Indian Affairs, to whom was referred the bill (S. 7390) to ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation and provision to carry the same into effect, reported it with amendments, and submitted a report thereon.

---

[36 Cong. Rec. 2502 (1903)]

Mr. GAMBLE. I ask unanimous consent for the present consideration of Senate bill 7390, which I have just reported and which is at the desk.

Mr. MASON. I gave notice that at this hour I would ask the Senate to proceed to the consideration of the Post-Office appropriation bill. The Senator from South Dakota says the bill he wishes to call up is short and will not provoke discussion, and I will yield to him.

Mr. GAMBLE. I do not think it will provoke any discussion. A similar bill has already passed the Senate.

Mr. LODGE. How long is it?

The PRESIDENT pro tempore. Ten pages.

Mr. FAIRBANKS. I ask unanimous consent—

The PRESIDENT pro tempore. The Senator from South Dakota has the floor and asks unanimous consent for the present consideration of a bill, which will be read.

Mr. LODGE. I do not think we ought to go on with the bill now.

Mr. GAMBLE. I will waive it for the present.

The PRESIDENT pro tempore. The Senator from Massachusetts objects.

---

[36 Cong. Rec. 2747-2748 (1903)]

#### AGREEMENT WITH SIOUX INDIANS OF ROSEBUD RESERVATION.

Mr. GAMBLE. I ask unanimous consent for the present consideration of the bill (S. 7390) to ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation and provision to carry the same into effect.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Indian Affairs with amendments.

The first amendment was, in section 5, page 9, line 18, after the word "act," to insert "and amended agreement;" so as to make that section read:

SEC. 5. This act and amended agreement shall take effect only upon the acceptance thereof and consent thereto by the Rosebud Indians, in manner and form prescribed by the sixth article of the



agreement herein as amended, which said acceptance and consent shall be made known by proclamation by the President of the United States upon satisfactory proof presented to him that the same has been obtained in the manner and form required by said sixth article of said agreement, which proof shall be presented to him within two years from the passage of this act, and upon failure of such proof and proclamation this act become of no effect and null and void.

The amendment was agreed to.

The next amendment was to add as a new section the following:

SEC. 7. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections 16 and 36 or the equivalent in each township, or to dispose of said land except as provided herein; or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend any pay over the proceeds received from the sale thereof only as received, as herein provided.

The amendment was agreed to.

Mr. DUBOIS. I will ask the Senator who has charge of this bill—I could not hear the reading in the confusion which existed—if the treaty did not provide that these lands should be open to free homestead settlement?

Mr. GAMBLE. No, sir. The original bill, which was passed at the last session of Congress, provided free homes. This bill is changed in that particular and provides for the settlers paying \$2.50 an acre.

Mr. DUBOIS. I trust, Mr. President, that that provision will not be passed. I think the free-home provision ought

to stay in the bill. I hope the Senate will not pass any bill buying Indian reservations and charging settlers for the land. I see no reason why Congress should do that.

A free-homes bill was passed a few years ago, relieving all those who had gone on Indian reservations and taken up lands from paying the money which they had agreed to pay when they went on those lands. We had an illustration on my own State of the opening of an Indian reservation and charging \$3.75 an acre for the land. It was the best land in the State. Settlers went on there, taking the lands with the understanding that they were to pay \$3.75 an acre for them. The proposition confronted us to pass a free-homes bill to be applied to all reservations, to lands which had been opened previous to the passage of that bill. The bill was passed a year or two ago. I had the honor of being chairman of the Public Lands Committee of this body when that proposition was urged, and I opposed it unless it were made to apply to all future purchases of Indian reservations. So long as I had the honor of being the chairman of the committee the free-homes bill was not passed. Finally the bill went to the Committee on Indian Affairs, and I think came out from that committee.

The argument made then is good now, and is always good. The men who go out there representing the Government to make treaties with the Indians are besieged by the people living around the reservation to make a treaty, no matter how much they have to pay for the land. All the white people urge that to be done.

The PRESIDENT pro tempore. This debate is proceeding by unanimous consent. There is nothing pending before the Senate unless the Senator objects to the further consideration of the bill.

Mr. DUBOIS. Will the Senator from South Dakota not accept an amendment providing for free homes, as was provided for in the original bill?

Mr. GAMBLE. At the last session of Congress this bill was passed with the free-homes provision, which was insisted upon here. It has met with serious objection in the other House, and can not be carried through there. The bill has been amended to meet those objections; and we prefer to have the bill passed in its present form. Should the bill go to the other House containing the free-homes amendment, it would meet the fate of the bill passed last year. We are very anxious to have this bill in its present form. The delegation of the State of South Dakota is satisfied with it under existing conditions, and I trust no objection will be interposed by the Senator from Idaho.

Mr. DUBOIS. Mr. President, I have been maintaining my present position for several years, and it is a correct position. I think now, while I myself am besieged by my own people to have the price of land reduced from that provided for in the treaty stipulation when it was passed a couple of years ago, and approved by all our Senators and Representatives, still they afterwards come here asking Congress to take away from them the direction to pay for those lands at the stipulated price, and they ask to be relieved from paying what they agreed to pay when the act was passed through Congress, I do not feel as though I could give my consent that the bill be amended in this way.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

---

[36 Cong. Rec. 3074 (1902)]

# SENATE BILLS REFERRED.

\* \* \*

S. 7390. An act to ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation in South Dakota, and making appropriation and provisions to carry the same into effect—to the Committee on Indian Affairs.

---

[#11A]

(Senate report to accompany S. 7390 concerning the 1901 agreement with the Rosebud Sioux Indians)

[S. Rep. No. 3271, 57th Cong., 2d Sess. 1-5 (1903)]

AGREEMENT WITH THE INDIANS OF THE  
ROSEBUD RESERVATION, S. DAK.

---

FEBRUARY 23, 1903.—Ordered to be printed.

---

Mr. GAMBLE, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany S. 7390]

The Committee on Indian Affairs, to whom was referred the bill (S. 7390) to ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation, of South Dakota, and making appropriation and provision to carry the same into effect, having had the same under advisement, make the following report and recommend that the bill do pass with the following amendments:

After the word "act," in line 18 on page 9, insert the following words: "and amended agreement."

Add the following as an additional section to said bill:

SEC. 7. Nothing in this act contained shall in any manner bind the United States to purchase any

portion of land herein described, except sections sixteen and thirty-six, of the equivalent in each township, or to dispose of said land except as provided herein; or to guarantee to find purchasers for said lands or any portion thereof; it being the intention of this act that the United States shall act as trustee for said Indians, to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received, as herein provided.

Your committee adopts as a part of its report the report of the Committee on Indian Affairs of the House on House Bill 17467, being a bill identical in its provision with the one under consideration:

The purpose of this bill is to ratify and amend an agreement made with the Rosebud Indians, in South Dakota, by Inspector James McLaughlin, dated September 14, 1901, providing for the cession to the United States of the unallotted portion of their lands in Gregory County, S. Dak., and opening the same to settlement and entry under the homestead and town-site laws.

The area of the reservation embraced in Gregory County proposed to be ceded under this agreement is 416,141.24 acres. There is 452 Indians holding allotments in the county, aggregating 104,999 acres.

The agreement made with the Indians provided that the United States should pay for the land at the rate of \$2.50 per acre, \$250,000 of the amount to be expended in the purchase of stock cattle for the benefit of the Indians and the balance to be paid per capita in cash in five annual installments.

A bill for the ratification of this treaty and opening the lands to settlement and entry was reported by this committee favorably. A similar bill passed the Senate, was referred to this committee, and was also unanimously



reported, and both bills have been upon the Calendar of the House for passage for some time. The present bill proposes to adopt a new policy in acquiring lands from the Indians, and it provides that the lands shall be disposed of to settlers under the homestead and town-site laws, and to be paid for by the settlers, and the money to be paid to the Indians only as it is received in payment for the land from the settlers. It provides that \$250,000 shall be expended for the purchase of stock cattle, as the original treaty provides, and not more than \$500,00 shall be expended for or paid to the Indians with two years, and not more than \$150,000 shall be expended per year thereafter until the expiration of the five years.

This provision is for the protection of the Indians and to prevent them from receiving the full proceeds from the sale of these lands before five years. The bill also provides that section 16 and 36, or the equivalent of two sections in every township, shall be ceded to the State of South Dakota for school purposes and paid for by the United States at \$2.50 per acre, and an appropriation of \$90,000 is made for this purpose. This provision is in conformity with the guaranty given to the State of South Dakota by Congress in the enabling act, which provides that in any reservations opened to settlement subsequent to the admission of the State into the Union sections 16 and 36 would be reserved and ceded to the State for school purposes.

The provision of the bill for payment of the lands by settlers, in installments, 50 cents per acre when entry is made, and the balance in four payments of 50 cents per acre, is deemed a wise one, as it will make it easy upon the settler to pay for his land, and will also provide a fund to pay the Indians an annual per capita cash payment. Section 5 of the bill provides that it shall be of no effect until it is assented to and accepted by

three-fourths of the male adult Indians over 18 years of age, which provision is in accordance with the twelfth article of the treaty between the United States and the Sioux Indians concluded April 29, 1868, and while it is probably true that it is not necessary to secure the consent of the Indians in enacting legislation affecting them, in view of the treaty stipulation aforesaid, the committee have concluded that it would be better to require the treaty as amended to be accepted by the Indians before it becomes effective.

The lands are agricultural and desirable, and will probably all be filed upon and paid for, but for fear there might be some tracts undesirable for homesteads a provision is made in the bill by which, under rules and regulations to be prescribed by the Secretary of the Interior, the undisposed of portions may be sold at public auction to the highest bidder, in tracts not exceeding 160 acres to one person, who must be a citizen of the United States.

The committee are of the opinion that the bill is in every way fair to the Indians and also to the United States, and that the terms by which the lands may be acquired by settlers are not unreasonable, and therefore urge the passage of the bill. The agreement, as originally made with the Indians, which is a part of the bill, was approved by the Commissioner of Indian Affairs and the Secretary of the Interior, as will be shown by communications which are herewith submitted.

---

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
*Washington, November 23, 1901.*

SIR: The office has the honor to acknowledge the receipt of a letter dated October 11, 1901, from the

Acting Secretary of the Interior, transmitting a report by United States Indian Inspector James McLaughlin, dated October 5, 1901, with which he inclosed an agreement dated September 4, 1901, with the Indians of the Rosebud Reservation, in South Dakota, providing for the cession of the unallotted portion of their lands embraced in Gregory County. In his said letter the Acting Secretary directed that if the office, after consideration, finds no objection to the approval of said agreement, proper report be prepared for presentation to Congress with a view to the ratification of the agreement.

The question of securing the cession of the lands referred to was first suggested during the first session of the Fifty-sixth Congress, when bills providing for negotiations to that end were introduced. As aside from the fact that the lands in question, which are not being used by the Indians, are very desirable for agricultural purposes, the main reason put forward for having the lands opened up was that at the present time the larger portion of Gregory County was embraced in the Indian reserve, so that it was difficult for the remainder of the county to maintain the county organization.

The office has also had a great deal of correspondence with the people at large during the past two years in reference to the opening of said lands.

No Congressional authority for conducting negotiations, however, was granted until, by a provision contained in the last Indian appropriation act, approved March 3, 1901, the Secretary of the Interior was authorized, in his discretion, to negotiate through a United States Indian inspector with the Indians for the cession of portions of their respective reserves. Accordingly, under date of March 19, 1901, a draft of instructions was prepared by this office for the guidance of the United States Indian inspector conducting negotia-

tions with the Rosebud Indians for the lands referred to. Said instructions were approved by the Department on March 21, 1901, and Inspector McLaughlin detailed for the duty of conducting negotiations.

\* \* \* \* \*

Article 1 of the agreement concluded by the inspector with said Indians provides that in consideration of the sum thereafter named the Indians cede to the United States all that portion of their reservation not allotted, situated and lying east of the tenth guide meridian. Said guide meridian forms the township line between townships 73 and 74 west, and is also the west boundary line of Gregory County, so that the lands ceded embrace all of the Indian reservation not allotted situated in said county.

Article 2 stipulates that in consideration of the cession agreed to by article 1 of the agreement the United States will expend for and pay to the Rosebud Indians the sum of \$1,040,000.

Article 3 provides that \$250,000 shall be expended in the purchase of stock cattle of native range or graded Texas 2-year-old heifers and graded Durham or Hereford 2-year-old bulls for issue to said Indians, the same to be distributed as equally as possible among the men, women, and children as soon as practicable after ratification of the agreement.

This article further provides that the balance of the consideration, \$790,000, shall be paid to the Indians per capita in cash in five annual installments of \$158,000 each, the first of such cash payments to be made within four months after the ratification of the agreement.



Article 4 provides that all persons of the reservation who have received allotments and are now recognized as members of the tribe, belonging on the reservation, including mixed bloods, whether white bloods come from the paternal or maternal side, and the children born to them shall enjoy the undisturbed and peaceable possession of their allotted lands, and shall be entitled to all the rights and privileges enjoyed by full-blood Indians. This article further provides that white men theretofore lawfully intermarried into the tribe and now living with their families upon the reserve shall have the right of residence thereon not inconsistent with existing statutes.

Article 5 provides that nothing in the agreement shall be construed to deprive the Indians of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provision of this agreement.

Article 6 stipulates that the agreement shall not take effect and be in force until the same is accepted and ratified by the Congress of the United States.

The agreement is dated September 14, 1901, and contains the signatures of James McLaughlin, United States Indian inspector, and of 1,031 male adult Indians of the reservation. A certificate dated October 4, 1901, by William Bordeaux, official interpreter, and William F. Schmidt, special interpreter, is appended to the agreement, to the effect that the provision thereof were fully explained by them to the Indians in open council, that it was fully understood by them before signing, and that the signatures, though the names are similar in some cases, represent different individuals in each instance, as indicated by their respective ages.

\* \* \* \* \*

A certificate dated October 4, by United States Indian Agent Charles E. McChesney, is also attached, stating that the total number of male adult Indians over 18 years of age belonging to the reservation is 1,359, of whom 1,031 have signed the agreement, being 12 more than three-fourths of the male adult population of the reservation.

Having been unable to get the Indians to fix a price upon the lands in his first councils with them, the inspector states that in the council held September 12 he made them a flat offer of \$2.50 per acre for the tract, stating that this was double the minimum price of Government lands and full value for their unallotted lands in Gregory County; that while he regarded the land worth that amount, it was all that it was worth, and that his offer would not be increased; whereupon a number of the older men withdrew from the council; that, however, he succeeded in having a majority of those assembled remain until another council had been arranged for September 14, on which latter date an agreement was reached.\* \* \*

The inspector states that the land in Gregory County is without doubt the best and most desirable portion of the Rosebud Reservation, and that although the allotments embrace much of the choicest land, yet a great deal of good land remains unallotted. The whole tract, he says, is excellent grazing land and the greater portion is also good agricultural land, upon which excellent crops can be raised when there is sufficient rainfall during the growing season. He says he regards the compensation stipulated in the agreement as very reasonable and at the same time a fair and just price for the lands.

According to the inspector's report, the area of the portion of the Rosebud Reservation embraced in Gregory County is 521,050.24 acres, of which 104,909 acres have been allotted to 452 Indians, leaving 416,141.24 acres



unallotted, which was stated in the agreement as approximating 416,000 acres, for a definite lump sum, at \$2.50 per acre, of \$1,040,000.

The inspector adds that the cession covers 160 acres reserved for the Ponca Creek issue station, 40 acres for the Ponca Creek day school, 78.76 acres for the Catholic Mission, and two tracts of 80 and 40 acres, respectively, for the Congregational Mission—a total of 398.67 acres thus being reserved.

Respecting the disposition to be made of the proceeds arising from the cession, the inspector states that the stock cattle provided for by article 3 will be of great benefit to the Indians, who have such magnificent stock ranges upon their reservation, and that the cash payment for five years will aid the Indians materially in providing for their family needs during that time, after which the matured cattle, the increase from the stock issued to them, will be marketable and will, with proper care, give them an annual revenue thereafter.

The inspector states that he was very desirous of having the agreement provide for the construction of dams and reservoirs on arid portions of the reservation, and also for the purchase of lumber for the construction of houses, and that both he and Agent McChesney endeavored by sound reasoning to have the Indians accept such provisions, but to no purpose, they maintaining that those in need of dams could construct the same themselves, and those requiring lumber could purchase it with the money they received as their per capita payments.

They insisted that if lumber were provided for issue to the Indians an equal per capita distribution of it could not be made. The Indians insisted for a long time upon having the entire \$790,000 paid to them in cash in one payment; but the inspector says he finally succeeded in

getting their consent to its payment in five annual installments, which he says will approximate about \$30 per capita annually for five years.

\* \* \* \* \*

In conclusion, the inspector states that he regards the compensation and manner of payment provided in the agreement as just and fair, both to the Indians and to the United States; the manner of payment was the best, both for the Indians and for the Government, that the Indians would accept; that the stock cattle and the five annual cash payments will be of great benefit to the Indians in giving them a good start toward their self-support. He heartily recommends the approval and ratification of the agreement. \* \* \*

The compensation agreed upon for the land ceded, amounting to about \$2.50 per acre, is, in the judgment of this office from the best information obtainable, fair and reasonable. Although it might have been better to have had the consent of the Indians to the disposition of a larger portion of the proceeds, under the direction of the Secretary of the Interior, for their benefit, it will be seen from the report of the Inspector and the transcript of council proceedings that the Indians would not consent to the distribution of any portion of the \$790,000 otherwise than in cash.

The office has accordingly prepared a draft of a bill embodying the agreement providing for the acceptance and ratification of the agreement. Section 2 of said draft provides for the appropriation of \$408,000, the amount necessary to carry the provisions of articles 2 and 3 of the agreement into effect. \* \* \*

W. A. JONES, *Commissioner.*

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,  
Washington, December 6, 1901.

SIR: I have the honor to transmit herewith a copy of a report of the Commissioner of Indian Affairs, dated 23d ultimo, and accompanying copy of an agreement, dated September 14, 1901, between United States Indian Inspector James McLaughlin and the Indians of the Rosebud Reservation, S. Dak., providing for the cession to the United States of the unallotted portion of their lands embraced in Gregory County, S. Dak., with the draft of a bill prepared by the Commissioner of Indian Affairs and the Commissioner of the General Land Office, ratifying the agreement, and accompanying papers.

This agreement has been carefully considered by the Commissioner of Indian Affairs, and as it seems fair and reasonable, and the terms the best that could be obtained, I have the honor to recommend that it receive favorable action by the Congress.

Very respectfully, E. A. HITCHCOCK,  
Secretary.

The PRESIDENT PRO TEMPORE UNITED STATES  
SENATE.

---

[#12]

(Letter of June 30, 1903 from Commissioner of Indian Affairs, Jones to Indian Inspector McLaughlin.)

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
Washington, June 30, 1903.

James McLaughlin, Esq.,  
U.S. Indian Inspector,  
Sir:

In a joint request to the Department dated April 4, 1903, the members of the South Dakota delegation in Congress, Senators Gamble and Kittredge and representatives Burke and Martin, asked that an Inspector be detailed to proceed to the Rosebud Indian reservation, in South Dakota, for the purpose of negotiating a new agreement with the Indians thereof for the cession of the unallotted portion of their reserve embraced in Gregory County, along the lines proposed in Senate Bill No. 7390, 57th Congress. By letter of the 18th instant Senator Gamble renewed this request, and by indorsement thereon dated the 24th instant the same was referred to this office by the Secretary of the Interior with directions "to prepare instructions for the guidance of Inspector McLaughlin in conducting negotiations with the Indians, for an agreement in substantially the same form as the modified agreement embraced in Senate Bill 7390, 57th Congress, 2nd Session."

The essential features of said S. 7390, with which you are already familiar, are as follows:

(1) That instead of paying the Indians the lump sum of \$1,040,000 for the surplus Gregory County lands as provided in the agreement of September 14, 1901, the lands be disposed of to settlers under the provisions of

the homestead and town-site laws, excepting sections 16 and 36 or the equivalent thereof, at not less than \$2.50 per acre, the proceeds arising from such sale to be paid to the Indians.

(2) That sections 16 and 36 in each township be reserved for the use of the common schools of South Dakota and paid for by the United States at \$2.50 per acre, and that in case said sections or any portions thereof shall have been allotted to the Indians or otherwise disposed of, the State shall have the privilege of selecting other vacant lands in lieu thereof within the ceded tract, such selections to be made prior to the opening of the lands to settlement.

(3) That of the proceeds arising from the sale of such ceded lands the sum of \$250,000 shall be expended in the purchase of stock cattle, the same to be issued to the Indians and distributed as equally as possible among the men, women, and children belonging to the reservation; provided that not more than one-half the money received in any one year shall be thus expended, the other half to be paid to the Indians per capita in cash, and an accounting, settlement and payment made to them in the month of October of each year until the lands are fully paid for and the funds distributed among them.

(4) That the price of said lands to homestead settlers shall be \$2.50 per acre, of which amount 50 cents per acre is to be paid at the time of entry; 50 cents per acre within two years from date of entry; 50 cents per acre within three years from date of entry; 50 cents per acre within four years from date of entry; and 50 cents per acre within six months from the date of expiration of five years after date of entry; and that if any entryman fails to make any of the payments within the time required all his rights shall cease at once and any payments theretofore made shall be forfeited and the entry shall be held

for cancellation, *unless* the Secretary of the Interior excuses for good cause the said failure to make payment, application for which must be made by the settler within thirty days after default.

(5) That all lands remaining undisposed of at the expiration of four years shall be sold at auction to the highest bidder for each under regulations to be prescribed by the Secretary of the Interior at not less than \$2.50 per acre in tracts not to exceed 160 acres to any one person.

(6) That the United States shall act as trustee merely for said Indians in disposing of the lands and in expending and paying over the proceeds derived from their sale and shall not be bound in any manner to purchase any of the said lands, excepting sections 16 and 36, or to dispose of the same otherwise than as proposed or to guarantee to find purchasers for the same or for any portion thereof.

Having assembled the adult male Indians of the reservation in council for the purpose, you will explain to them carefully the provisions, and especially the main features, of said Bill. No pains should be spared in making them fully acquainted with the general purport of the Bill, and the probable results of an agreement, if carried out, along the lines and on the terms proposed.

The agreement of September 14, 1901, was made on the basis of \$2.50 per acre for all the surplus unallotted Rosebud lands in Gregory County. It is recalled that during the councils when said agreement was concluded, the Indians were very persistent in their demands, almost to the very last, for a larger price for said lands. They insisted that the lands were worth \$5.00 per acre. Since then several petitions and letters have been received from these Indians earnestly protesting against the ratification of said agreement because of the inadequacy of the compensation, and asking that a new agreement be



entered into providing for a proper remuneration for their said lands. Letters from outside parties were also received indicating that the lands were worth a larger price than that agreed to be paid.

There can be no doubt that a large portion, at least, of the surplus land in question is worth considerable more than \$2.50 per acre. Necessarily, on the other hand, some of the land is undesirable and of such inferior quality as to render its disposition under the plans proposed in said Bill quite unlikely. It is therefore quite probable that the total amount realized by the Indians under the plan now proposed must fall considerably short of the \$1,040,000 agreed to be paid them in the former agreement, for it is doubtful whether much, if any, more than \$2.50 per acre *cash* could be secured at auction for any of the inferior lands remaining undisposed of under the homestead law with privilege of deferred payments at the end of four years, while necessarily some of it could not be disposed of at all for that price.

These points should be plainly presented to the Indians and fully discussed with them. They should be made to understand that the Government proposes, aside from the purchase of sections 16 and 36, to act merely as trustee in the transaction, and that it assumes no risks and takes no responsibility, other than to collect and disburse the moneys. The method proposed for disposing of these lands is a new departure, and it is therefore specially desirable that the matter should be thoroughly understood by the Indians before they enter into an agreement along the lines proposed, so that the possibility of future disappointment may be reduced to a minimum, and all ground for complaint hereafter removed.

If after full discussion, they are willing to enter into an agreement on the plan proposed in said Bill, and on terms that seem to you to be just and fair to the Indians and

that will, so far as may be, preserve their rights and interests and secure for them adequate compensation for their lands, you will reduce the matter to writing and present it to them for their signatures.

The terms of any agreement concluded should not only be such as will provide for the payment to the Indians of a just and fair price for their lands, but as will render payment therefor as certain as may be. It is true that said Bill provides for the forfeiture of the settler's land in case of default, *unless* the Secretary of the Interior grants an extension of time within which to make payment. The clause as to such extension is, however, indefinite and it is suggested that in any new agreement concluded it would be well to insert a provision to the effect that an extension may be granted by the Secretary of the Interior for a period of *not to exceed six months*, and that *default to meet the payment within that time shall work the absolute forfeiture of the entry*. From past experience it is believed that, unless the provisions bearing on this point are made most positive and rigid, dissatisfaction and disappointment on the part of the Indians will be the probable result. The possibility of such a result should be averted as far as possible, and it is felt that a long step in that direction will be taken if no accumulation of payments by the settler be permitted and no postponements allowed for a full year. The office is aware that in the past the usual plea of the settlers for more time had been based on failure of crops, but no good reason is seen why the Indians should be required to suffer the consequences of any crop failures or adversity in other forms that may come to the settler, and it is believed that if he knows he must meet the payments when they come due, that he will do so.

In any agreement concluded provision should be made either for the payment by the Government for lands now

occupied for church, mission and school purposes and for sub-issue station, or for the reservation of the same by the Indians.

If provision be made in any agreement concluded for the purchase by the United States of sections 16 and 36, or their equivalent, with the view to the donation of the same to the state for school purposes it is suggested that such provision should be expressed conditionally.

It is not deemed necessary herein to give you any definite instructions as to the form of the agreement and the manner of its execution inasmuch as you are thoroughly familiar with these features of the subject. Attention is invited in this connection, however, to Departmental instructions to you dated March 21, 1901, in connection with the negotiation of the former agreement.

There being no funds available to pay expenses in connection with these negotiations, it will be necessary for you to call upon the U.S. Indian Agent of the Rosebud Agency for such assistance you may require and for co-operation in conducting the proposed negotiations.

Should there be any point upon which you desire further instruction the Department should be promptly advised of the fact and request made therefor.

For your use there is enclosed herewith a copy of said S. Bill No. 7390.

Very respectfully,

W. A. JONES

Commissioner.

JRW-S

Approved:

Secretary.

---

[#13]

(Minutes of Council, July 24, 1903 to Aug. 10, 1903)

[1] Minutes of council held at Rosebud Agency, S. D. by James McLaughlin, U.S. Indian Inspector; with the Sioux Indians belonging on the Rosebud Reservation, S. D. in reference to the cession by said Indians of their unallotted lands in Gregory County, S.D.

-----  
Council convened Friday, July 24, 1903, at two o'clock, P.M. with Agent McChesney and about seventy-five Indians in attendance.

AGENT McCHESNEY:-

Louis Bordeaux interpreting,

I know that it is a pleasure for you as well as for me to have Inspector McLaughlin with you again. The Inspector is here at this time in regard to negotiations for the cession of Gregory County. Exactly what he has to submit to you, I do not know; as he has been here but a short time, and I have not conversed with him on the subject; but Inspector McLaughlin will inform you presently as to the object of his visit and the proposition he has to submit to you. You all know the Inspector. He is your friend, and it is entirely unnecessary for me to introduce him to you. I hope that you will consider well all that he has to say to you.

INSPECTOR McLAUGHLIN:-

My friends, I am very glad to meet you today. I have been sent here by the Secretary of the Interior to present to you a modification of the agreement we entered into two years ago, for your unallotted Gregory County lands. I telegraphed your Agent last Monday that I would meet you in council here today, and I know that it has been very difficult for those living great distances from the Agency to reach here, and therefore am not disappointed at finding so few of you present. However, that I may

keep my promise and hold our first council today, I have thought it proper to meet those of you who are here and explain the object of my visit; but I do not deem it best to go into a full explanation of the question, until a larger number are here, and will therefore not go into details until [2] tomorrow at One o'clock. I desire to explain the matter very clearly so that all of you may understand the question placed before you for consideration, and I would like to have as many of you here as possible during the council, when I submit the proposition; so that you will receive the information direct from me and not through a third party, and I therefore think it best that we now adjourn to meet tomorrow afternoon at One o'clock. I hope to have all of you who are here today and a great many more tomorrow. Bring as many as you can with you, so that there may be a good representative council.

I wish to say before closing that I am not here to force anything upon you against your will. I am here to explain matters fully and clearly, that every one of you may understand what I place before you, so that you may consider the matter understandingly and then give me your answer. Any information that you may desire on any point, I will cheerfully give it so that you may understand every phase of the question. It is a lengthy bill and to start in to explain it this evening, we could not get through it today and furthermore I would feel it my duty to repeat it again when the council was a larger representative one, and for that reason we will adjourn until One o'clock tomorrow afternoon. I wish to thank those of you who are here for being so prompt to respond to the notification to assemble here today.

**HOLLOW HORN BEAR:-**

I wish to say something. We knew that we were coming here to meet you, just like one belonging to the tribe, and

we thank you for coming to see us. You see only a few men here. The Great Father has told us to go to work, so many of us are working. Laboring men like their labor money and don't want to lose it, and these men present represent the laboring men and are here to do business for them. About the middle of next week we will have to stop working and I don't believe that a lot of people will come in tomorrow for this council. I think that each Issue Station should talk it over first and then come here to settle it. We could select some men to [3] represent us, who could come here to talk with you, and another thing we are not in a hurry to have a council with you and do this business running. You were here two years ago to do this business but we did not accomplish it running. You will see my good friend, also our Agent, that we should go home and talk it over at the Issue Stations and let us have councils so that we can think the matter over. And now you and our Agent decide upon how many men you desire as representatives to discuss this matter for the men at home at work. There will be no more men here tomorrow than today.

**INSPECTOR McLAUGHLIN:-**

The suggestion made by Hollow Horn Bear is very good, with one exception, which I will explain. I see that you men here are representative men of the districts in which you reside, and whatever you may hear from me, you could announce in your respective districts and explain to your people; and I approve of your counciling in your camps, but it is necessary for you to first know what you are counciling about to have your councils be of any benefit. Following out the suggestion of Hollow Horn Bear, we will meet tomorrow at an earlier hour than first announced and I will explain the provisions of the bill to you and you can then return home and explain to those of each district and elect representative men for the



council, and send them here for next Tuesday at One o'clock. We will meet here tomorrow morning at nine o'clock. Is that satisfactory?

COUNCIL:- Yes.

INSPECTOR McLAUGHLIN:-

Very well. We will now adjourn until Nine o'clock tomorrow morning. Council adjourned at 4:45 P.M. July 24, 1903.

Council reconvened at Nine o'clock A.M. July 25, 1903; Agent McChesney and about 130 Indians being present.

INSPECTOR McLAUGHLIN:-

I am pleased to see so many of you here this morning and I will now explain the bill which I am directed to present to you for your consideration.

[4] I will now read the bill to you. (Reads Senate Bill No. 7390, 57th Congress, 2nd Session, from Pages 5 to 10 inclusive, which was interpreted to the Indians by Louis Bordeaux as it was read by the Inspector)

INSPECTOR McLAUGHLIN:-

My friends, I have now explained the bill to you for your consideration. It is proposed to have this bill enacted into law at the next session of Congress, but before its enactment, it is the desire of the Secretary of the Interior to submit it to you for your consideration and concurrence. I have endeavored to make plain to you the different features of the bill as I read it to you, but it is very probable that many of you may not have understood every sentence, and I am here to explain the meaning of each sentence, the full import of every paragraph and section of the bill.

I deem it necessary to explain to you why the agreement entered into with you two years ago was not ratified. I transmitted that agreement to the Secretary with a strong recommendation that it be approved. The

Secretary referred it to the Commissioner of Indian Affairs for report and he returned it to the Secretary with his approval. The Secretary approved it and transmitted it to Congress with a strong recommendation that it be ratified. It was taken up by the Senate, referred to the Senate Indian Committee, and passed that body after some discussion. In the House it was referred to the Indian Committee where it was favorably considered; but met with opposition in the full House. I was in Washington, a year ago last winter, when the agreement was under consideration, and know that every man composing the delegation from this state did everything possible to have that agreement ratified.

Senator Gamble is a member of the Senate Indian Committee and Congressman Burke is a member of the Indian Committee of the House, and both worked very hard to bring about the ratification of the agreement. They were supported by Senator Kitttridge and Congressman [5] Martin, but there were members of the House who were opposed to the ratification of your agreement, not that it was considered unfair or unjust, but because there were seven other similar agreements, eight in all, that were before Congress for ratification. If one of them should be ratified, the other seven would have to be similarly treated.

There has been a sentiment growing in Congress for a number of years past, and is now stronger than ever, against paying Indians for ceded lands direct from the U.S. Treasury. This is what is referred to in my letter of instructions, which I read to you, as being a new departure in the manner of disposing of the surplus lands of Indian reservations, and instead of paying Indians direct from the U.S. Treasury as heretofore for their surplus lands; they will be paid from the proceeds of the sale of the lands ceded; the Department thus acting as

trustee for the Indians, and the Interior Department having charge of the lands will dispose of them in such manner as will secure to the Indians the highest price obtainable. This is the new departure referred to, and I believe, my friends, that no treaty will ever again be made with Indians, by which they will receive a lump sum consideration for the tract ceded, but only what the Government is able to realize from the sale of the lands. You must look at this matter clearly and without prejudice and I want you all to consider it with great care.

I regard it, under the circumstances, and considering everything in connection with it, a very nice compliment to you people for the Department to send an Inspector to you again to council with you; for the reason that a decision of the Supreme Court of the United States, which court is the interpreter of all our laws, rendered on January 5th last, in what is known as the Lone Wolf case, that the Indian is the ward of the Government; that the Government is the guardian; that the guardian has the right to do that which is deemed best for the ward, therefore Congress has the power to enact legislation for the surplus lands of Indians, without consulting the Indians. But this is not the wish of the Secretary of the Interior, or Commissioner of [6] Indian Affairs, nor of the Congressional delegation from this state; they wish to consult the Indians. Now, my friends, the matter for you to consider is whether you will accept the modification of this agreement or not. I fully believe that your agreement of two years ago, will never be ratified, owing to the sentiment prevailing in Congress at the present time, which sentiment is not likely to change; therefore the only question before you is, whether or not you will cede the same tract of land, and have the Government dispose of it without charge to you, and the money to be